Übersetzung durch Ute Reusch

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Act on International Mutual Assistance in Criminal Matters

(Gesetz über die internationale Rechtshilfe in Strafsachen – IRG)

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Part 1
Scope of application

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Section 1
Scope of application

(1) Mutual assistance in criminal matters between Germany and foreign states is governed by the provisions of this Act.

(2) For the purposes of this Act, ‘criminal matters’ includes proceedings for an offence which is punishable under German law as a regulatory offence by imposition of an administrative fine or which is punishable under the law of a foreign state by imposition of a comparable sanction, provided that a court which also has jurisdiction in criminal matters is able to determine the sanction.

(3) Insofar as they have become directly applicable domestic law, the provisions of agreements under international law take precedence over the provisions of this Act.

(4) Assistance rendered in the context of proceedings in a criminal matter relating to a Member State of the European Union is governed by the provisions of this Act.

(5) Assistance rendered in the context of proceedings in a criminal matter relating to extradition and transit matters involving the Republic of Iceland or the Kingdom of Norway is governed by the provisions of this Act.

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Section 2
Principle

(1) A foreign national who is being prosecuted in a foreign state for an offence or who has been convicted of an offence which is punishable there may be extradited to that foreign state upon the request of a competent agency for prosecution or for enforcement of a penalty or other sanction imposed for that offence.

(2) A foreign national who has been convicted in a foreign state of an offence which is punishable there may be extradited to another foreign state which has taken on the enforcement upon the request of a competent agency in that foreign state for enforcement of a penalty or other sanction imposed for that offence.

(3) For the purposes of this Act, ‘foreign nationals’ means persons who are not Germans as defined in Article 116 (1) of the Basic Law (*Grundgesetz*).

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Section 3
Extradition for prosecution or for enforcement

(1) Extradition is only permissible if the offence is also an unlawful act under German law which fulfils the elements of a criminal provision or if it would also constitute such an act under German law in the case of analogous conversion of the facts.

(2) Extradition for the purpose of prosecution is only permissible if the offence is punishable under German law with a maximum sentence of imprisonment of at least one year or if it would be punishable under German law by imposition of such a penalty in the case of analogous conversion of the facts.

(3) Extradition for the purpose of enforcement is only permissible if extradition for the purpose of prosecution would be permissible for the offence and if a sanction involving deprivation of liberty is to be enforced. It is, further, only permissible if it is to be expected that the remainder of the sanction involving deprivation of liberty still to be enforced or the sum of the sanctions involving deprivation of liberty still to be enforced amounts to no less than four months.

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If extradition is permissible, then it is also permissible for a further offence where

1. the conditions of section 3 (2) or (3) are not met for that offence or

2. the conditions of section 2 or of section 3 (1) are not met for that offence on account of the further offence only being punishable by a sanction under the terms of section 1 (2).

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Extradition is only permissible where assurances given by the requesting state lead to the expectation that the request would correspond to a comparable German request.

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(1) Extradition is not permissible for a political offence or for an act committed in connection with such an offence. It is permissible if the person pursued is being prosecuted for or has been convicted of completed or attempted genocide, murder under specific aggravating circumstances (*Mord*) or murder (*Totschlag*) or participating in such an offence.

(2) Extradition is not permissible if there are substantial grounds for believing that, in the event of being extradited, the person pursued would be prosecuted or punished by reason of his or her race, religion, nationality, political views or belonging to a specific social group, or if that person’s situation would be made more difficult for one of those reasons.

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If the offence is punishable under the law of the requesting state by the death penalty, then extradition is only permissible if the requesting state gives an assurance that the death penalty will not be imposed or will not be enforced.

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Concurrent jurisdiction

Where German jurisdiction is also established for an offence, extradition is not permissible if

1. a court or an authority within the area of application of this Act has delivered a judgment or given a decision with corresponding legal effect against the person pursued for the offence, has refused to open main proceedings (section 204 of the Code of Criminal Procedure (*Strafprozeßordnung*)), has not granted an application to prefer public charges (section 174 of the Code of Criminal Procedure), has terminated proceedings following the fulfilment of conditions and directions (section 153a of the Code of Criminal Procedure), or has dispensed with prosecution or terminated proceedings under juvenile criminal law (sections 45 and 47 of the Youth Courts Act (*Jugendgerichtsgesetz*)) or

2. prosecution or enforcement is statute-barred under German law or is ruled out under German immunity law.

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Section 9a
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(1) Extradition is not permissible where an international criminal court established by an instrument which is legally binding on the Federal Republic of Germany has delivered a final criminal judgment against the person pursued for the offence or has given a decision with corresponding legal effect, or it has finally terminated criminal proceedings, and, under the instrument of constitution, prosecution by another body is prohibited in that case. If the court referred to in sentence 1 conducts criminal proceedings for the offence and it has not yet issued its decision at the time of receipt of the request for extradition, then the decision on whether extradition is permissible is deferred. Temporary extradition (section 37) is not possible.

(2) If both a foreign state and a court as referred to in subsection (1) sentence 1 request that the person pursued be surrendered for the purpose of criminal prosecution or enforcement of a penalty (concurrent requests) and the instrument of constitution of the court or the legislation enacted in its implementation make provision on the procedure to be followed in the case of several requests being made, then the requests are executed in accordance with those provisions. If neither the instrument of constitution nor the legislation enacted in its implementation make provision on the procedure to be followed in the case of concurrent requests but the instrument of constitution gives precedence to proceedings before the international criminal court over proceedings in the foreign state, then precedence is given to the request submitted by the international criminal court.

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Section 10
Extradition documentation

(1) Extradition is only permissible if an arrest warrant, a document with corresponding legal effect or an enforceable judgment ordering deprivation of liberty issued by a competent agency in the requesting state and a description of the applicable statutory provisions have been submitted in respect of the offence. Where a request is made for extradition for the prosecution of several offences, it is sufficient, in respect of the further offences, to submit the document issued by the competent agency in the requesting state which clearly indicates the offence of which the person pursued is accused in lieu of an arrest warrant or a document with corresponding legal effect.

(2) Where the particular circumstances of a case give cause to examine whether there appears to be sufficient suspicion that the person pursued committed the offence of which he or she is accused, then extradition is, further, only permissible where a description of the facts setting out the sufficient grounds to suspect that said person committed the offence has been submitted.

(3) Extradition for enforcement of a penalty or other sanction which was imposed in a third state is only permissible where the following have been submitted:

1. the enforceable judgment ordering deprivation of liberty and a document issued by the third state indicating that it consents to enforcement by the state which has taken on enforcement,

2. a document issued by a competent agency in the state which has taken on enforcement indicating that the penalty or other sanction is enforceable there,

3. a description of the applicable statutory provisions and

4. a description, in the case under subsection (2), within the meaning of this provision.

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Section 11
Speciality

(1) Extradition is only permissible where it is guaranteed that the person pursued

1. will not be punished in the requesting state without Germany’s consent, nor subjected to a restriction of personal liberty nor prosecuted by measures which cannot also be taken in his or her absence on any grounds arising prior to the transfer, with the exception of the offence giving rise to the authorisation of extradition,

2. will not be re-extradited, transferred or deported to a third state without Germany’s consent and

3. may leave the requesting state following final conclusion of the proceedings giving rise to the authorisation of that person’s extradition.

(2) The requesting state may only be released from the obligation to abide by the principle of speciality if

1. Germany has consented to prosecution or to enforcement of a penalty or other sanction relating to a further offence (section 35), or to re-extradition, transfer or deportation to another foreign state (section 36),

2. the person pursued had the right and the opportunity to leave the requesting state but did not do so within one month after final conclusion of the proceedings giving rise to the authorisation of his or her extradition, or

3. the person pursued returned to the requesting state after leaving or was transferred back there by a third state. The right of the requesting state to hear the person pursued in the course of preparing a request under section 35 remains unaffected.

(3) Conditional release without an order restricting the person pursued’s freedom of movement is equal to final conclusion of the proceedings pursuant to subsection (1) no. 3 or subsection (2) sentence 1 no. 2.

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Section 12
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Except in the case referred to in section 41, extradition may only be authorised if the court has declared it permissible.

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Section 13
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(1) It is for a higher regional court to give the relevant court decisions, subject to sections 21, 22 and 39 (2). There is no right of appeal against such decisions by a higher regional court.

(2) The public prosecution office at the higher regional court prepares decisions on extradition and effects extradition once it has been authorised.

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Section 14
Local jurisdiction

(1) Local jurisdiction lies with the higher regional court and the public prosecution office at the higher regional court in whose district the person pursued is apprehended for the purpose of extradition or, if he or she is not apprehended, was first determined to be in.

(2) If several persons pursued who are to be extradited for participating in the same offence or for aiding after the fact, obstruction of prosecution or of punishment, or for handling stolen goods in connection with it are apprehended for the purpose of extradition or are found to be in the districts of different higher regional courts, then jurisdiction lies with that higher regional court or, if no higher regional court is yet seised of the case, with that public prosecution office at the higher regional court which was first seised of the case.

(3) If the person pursued’s whereabouts are not known, the Federal Court of Justice determines which higher regional court has jurisdiction.

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Section 15
Arrest pending extradition

(1) After receipt of a request for extradition, arrest pending extradition may be ordered against the person pursued if

1. there is a danger that the person pursued will evade the extradition proceedings or extradition itself or

2. there is strong reason to believe, based on certain facts, that the person pursued will render more difficult the establishment of the truth in proceedings in the foreign state or in the extradition procedure.

(2) Subsection (1) does not apply if it appears, from the outset, that extradition is not permissible.

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Section 16
Provisional arrest pending extradition

(1) Arrest pending extradition may be ordered under the conditions of section 15 even before receipt of the request for extradition if

1. the competent agency in the requesting state makes a request to that effect or

2. there is strong reason to believe, based on certain facts, that a foreign national has committed an offence which may provide grounds for extradition.

(2) The warrant of arrest pending extradition is to be lifted if the person pursued has spent a total of two months under arrest pending extradition, calculated from the day of apprehension or provisional arrest, without the request for extradition and the extradition documentation having been received by the authority designated in section 74 or by another agency competent to take receipt of them. Where a non-European state has requested the making of an order for provisional arrest pending extradition, the time limit is three months.

(3) Following receipt of the request for extradition and extradition documentation, the higher regional court gives a decision without delay as to whether detention is to continue.

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Section 17
Warrant of arrest pending extradition

(1) Provisional arrest pending extradition and arrest pending extradition are ordered by way of written arrest warrant (warrant of arrest pending extradition) issued by the higher regional court.

(2) The warrant of arrest pending extradition must indicate the following:

1. the name of the person pursued,

2. the state to which, in the light of the circumstances of the case, extradition is considered as a possibility,

3. the offence of which the person pursued is being accused,

4. the request or, in the case under section 16 (1) no. 2, the facts which indicate that there is strong reason to believe that the person pursued committed the offence giving cause for that person’s extradition and

5. the reason for arrest and the facts on which it is based.

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Section 18
Investigative measures

Where a request for extradition has been received and the person pursued’s whereabouts are not known, the measures required to ascertain the person pursued’s whereabouts and to arrest him or her may be taken. No separate request is required for the ordering of individual investigative measures. It is for the public prosecution office at the higher regional court to issue an alert for arrest. The provisions of Division 9a of the Code of Criminal Procedure apply accordingly.

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Section 19
Provisional arrest

Where the conditions for the issuing of a warrant of arrest pending extradition are met, the public prosecution office and police officers are authorised to make a provisional arrest. Under the conditions of section 127 (1) sentence 1 of the Code of Criminal Procedure, any person is authorised to make a provisional arrest.

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Section 20
Disclosure

(1) Upon their arrest, persons pursued are to be informed of the reason for their arrest.

(2) Where a warrant of arrest pending extradition has been issued, it must be disclosed to the person pursued without delay. The person pursued is given a copy.

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Section 21
Procedure following apprehension based on warrant of arrest pending extradition

(1) Upon their apprehension on the basis of a warrant of arrest pending extradition, persons pursued are to be brought before a judge at the nearest local court without delay, but no later than the day following their apprehension.

(2) The judge at the local court hears persons pursued about their personal circumstances, in particular nationality, without delay after they are brought before the court, but no later than the following day. The judge draws their attention to the right to avail themselves of the services of legal counsel (section 40) at any stage of the proceedings and to the fact that they are free to either make a statement or not make a statement regarding the offence of which they are accused. The judge then asks whether and, if so, for what reasons they wish to object to extradition, to the warrant of arrest pending extradition or to its enforcement. In the case under section 16 (1) no. 2, the hearing also encompasses the subject matter of the accusation; in all other cases, any information which persons pursued volunteer is to be placed on record.

(3) If it transpires in the course of the hearing that

1. the person apprehended is not the person designated in the warrant of arrest pending extradition,

2. the warrant of arrest pending extradition has been lifted or

3. enforcement of the warrant of arrest pending extradition has been suspended,

then the judge at the local court orders the apprehended person’s release.

(4) Where the warrant of arrest pending extradition has been lifted or its enforcement has been suspended, the judge at the local court orders that the person pursued be detained until the higher regional court gives its decision if

1. the conditions for the issuing of a new warrant of arrest pending extradition for the offence are met or

2. there are grounds for ordering enforcement of the warrant of arrest pending extradition.

The public prosecution office at the higher regional court is responsible for ensuring that the higher regional court gives such a decision without delay.

(5) If the person pursued raises other objections to the warrant of arrest pending extradition or to its enforcement which are not manifestly unfounded, or if the judge at the local court has doubts in respect of continuing detention, then the judge without delay and by expeditious means notifies the public prosecution office at the higher regional court of that fact. The public prosecution office at the higher regional court is responsible for ensuring that the higher regional court gives such a decision without delay.

(6) If the person pursued does not raise any objections to extradition, then the judge at the local court instructs said person about the possibility of a simplified extradition procedure and about its legal consequences (section 41) and then records their statement.

(7) There is no right of appeal against the decision given by the judge at the local court. The public prosecution office at the higher regional court may order the person pursued’s release.

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Section 22
Procedure following provisional arrest

(1) Upon their provisional arrest, persons pursued are to be brought before the judge at the nearest local court without delay, but no later than the day following their arrest.

(2) The judge at the local court hears persons pursued without delay after they are brought before the court, but no later than the following day, about their personal circumstances, in particular nationality. The judge draws their attention to the right to avail themselves of the services of legal counsel (section 40) at any stage of the proceedings and to the fact that they are free to either make a statement or not make a statement regarding the offence of which they are accused. The judge then asks whether and, if so, for what reasons they wish to object to extradition or to the provisional arrest. Section 21 (2) sentence 4 applies accordingly.

(3) If it transpires in the course of the hearing that the person apprehended is not the person to which the request or the facts referred to in section 17 (2) no. 4 pertain, then the judge at the local court orders that person’s release. Otherwise, the judge at the local court orders that the person pursued be detained until the higher regional court gives its decision. Section 21 (4) sentence 2 and (6) and (7) applies accordingly.

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Section 23
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It is for the higher regional court to give decisions on objections raised by persons pursued against a warrant of arrest pending extradition or against its enforcement.

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Section 24
Lifting of warrant of arrest pending extradition

(1) A warrant of arrest pending extradition is to be lifted as soon as the conditions for provisional arrest pending extradition or arrest pending extradition are no longer met or extradition is declared not to be permissible.

(2) A warrant of arrest pending extradition is likewise to be lifted if the public prosecution office at the higher regional court makes an application to that effect. When making such an application it simultaneously orders the person pursued’s release.

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Section 25
Suspending enforcement of warrant of arrest pending extradition

(1) The higher regional court may suspend enforcement of a warrant of arrest pending extradition if less severe measures offer sufficient guarantee that the purpose of the provisional arrest pending extradition or of the arrest pending extradition will likewise be achieved if those less severe measures are taken.

(2) Section 116 (1) sentence 2 and (4), sections 116a and 123, and section 124 (1) and (2) sentence 1 and (3) of the Code of Criminal Procedure and section 72 (1) and (4) sentence 1 of the Youth Courts Act apply accordingly.

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Section 26
Review of detention

(1) Where the person pursued is under arrest pending extradition, it is for the higher regional court to decide whether detention is to continue once the person pursued has spent a total of two months in detention, calculated from the day of apprehension, provisional arrest or the day on which the last decision was taken concerning the continuation of detention. The review of detention is repeated every two months. The higher regional court may order that the review of detention is carried out within a shorter time frame.

(2) Where the person pursued is under provisional arrest pending extradition or under provisional placement in a youth welfare services home (section 71 (2) of the Youth Courts Act), subsection (1) applies accordingly.

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Section 27
Enforcement of detention

(1) The provisions concerning the enforcement of remand detention and section 119 of the Code of Criminal Procedure apply accordingly to the enforcement of provisional arrest pending extradition, of arrest pending extradition and of an arrest based on an order made by the judge at the local court.

(2) The public prosecution office at the higher regional court determines in which facility the person pursued is to be detained.

(3) It is for the president of the competent division at the higher regional court to make such court orders.

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Section 28
Hearing of person pursued

(1) Following receipt of a request for extradition, the public prosecution office at the higher regional court applies for the person pursued to be heard by that local court in whose district said person is located.

(2) The judge at the local court hears persons pursued about their personal circumstances, in particular nationality. The judge draws their attention to the right to avail themselves of the services of legal counsel (section 40) at any stage of the proceedings and to the fact that they are free to either make a statement or not make a statement regarding the offence of which they are accused. The judge then asks whether and, if so, for what reasons they wish to object to extradition. Persons pursued are only to be heard in respect of the substance of the accusation if the public prosecution office at the higher regional court makes an application to that effect; in all other cases, any information which persons pursued volunteer is to be placed on record.

(3) If they raise no objections to extradition, the judge at the local court instructs persons pursued about the possibility of a simplified extradition procedure and about its legal consequences (section 41) and then records their statement.

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Section 29
Application for decision on permissibility of extradition

(1) Where a person pursued has not consented to the simplified extradition procedure (section 41), the public prosecution office at the higher regional court applies for the higher regional court to give a decision in respect of whether extradition is permissible.

(2) The public prosecution office at the higher regional court may apply for the higher regional court to give a decision even if the person pursued has in fact consented to the simplified extradition procedure.

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Section 30
Preparing decision

(1) If the extradition documentation is not sufficient to be able to assess whether extradition is permissible, the higher regional court does not give a decision until the requesting state has been given the opportunity to submit additional documentation. A time limit may be set for its submission.

(2) The higher regional court may hear the person pursued. It may take additional evidence concerning the permissibility of extradition. In the case under section 10 (2), the taking of evidence concerning the permissibility of extradition also encompasses the matter of whether there appears to be sufficient suspicion that the person pursued committed the offence of which he or she is accused. It is for the higher regional court to determine the method and extent of the taking of evidence, without it being bound by applications, waivers or earlier decisions.

(3) The higher regional court may conduct a court hearing.

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Section 31
Court hearing

(1) The public prosecution office at the higher regional court, the person pursued and his or her legal counsel (section 40) are to be notified of the date and place of the court hearing. A representative of the public prosecution office at the higher regional court must attend the court hearing.

(2) If the person pursued is under arrest, he or she is to be brought before the court, unless he or she has waived the right to be present at the hearing or long distance, illness or other insurmountable obstacles prevent him or her being brought before the court. If the person pursued is not brought before the court for the court hearing, then legal counsel (section 40) must exercise that person’s rights at the hearing. In such cases, a lawyer (*Rechtsanwalt*) is to be appointed as legal counsel for the court hearing if the person pursued does not yet have legal counsel.

(3) If the person pursued is at large, the higher regional court may order that he or she appear in person. If a person pursued who has been properly summoned does not appear and no sufficient excuse is presented for such non-appearance, the higher regional court may order that the person pursued be brought before the court.

(4) The parties present are to be heard in the course of the court hearing. A record is to be kept of the hearing.

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Section 32
Decision on permissibility

Reasons are to be given in the decision on the permissibility of extradition. The decision is to be notified to the public prosecution office at the higher regional court, to the person pursued and to his or her legal counsel (section 40). The person pursued is given a copy.

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Section 33
New decision on permissibility

(1) If, after the higher regional court has given its decision on the permissibility of extradition, circumstances arise which suggest that there is reason to give a different decision on permissibility, then the higher regional court gives a new decision on the permissibility of extradition ex officio, upon application by the public prosecution office at the higher regional court or upon application by the person pursued.

(2) If, after the higher regional court has given its decision, circumstances become known which suggest that there is reason to give a different decision on permissibility, then the higher regional court may give a new decision on the permissibility of extradition.

(3) Section 30 (2) and (3) and sections 31 and 32 apply accordingly.

(4) The higher regional court may order that extradition be deferred.

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Section 34
Arrest to effect extradition

(1) If, after extradition has been authorised, the person pursued is at large and it is not possible to guarantee that extradition can be effected in another manner, then the higher regional court makes an order, by way of written arrest warrant, that the person pursued be arrested for the purpose of effecting extradition, unless enforcement of an existing warrant of arrest pending extradition (section 17) can be ordered.

(2) The arrest warrant must indicate the following:

1. the name of the person pursued,

2. the decision on the basis of which extradition was authorised and

3. the reason for arrest and the facts on which it is based.

(3) Sections 18 to 20 and 23 to 27 apply accordingly.

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Section 35
Extending authorisation of extradition

(1) Where extradition has already been effected and the state to which the person pursued has been extradited requests consent to prosecution or to enforcement of a penalty or another sanction for a further offence, such consent may be granted if

1. proof has been furnished that the person extradited had the opportunity to make a statement regarding the request and the higher regional court decided that extradition for the offence would be permissible or

2. proof has been furnished that the person extradited consented to prosecution or to enforcement of the penalty or other sanction, such consent being declared before and placed on record by a judge in the requesting state, and extradition for the offence would be permissible.

If a request is made for consent to prosecution, then, in lieu of an arrest warrant or document with corresponding legal effect (section 10 (1) sentence 1), the document issued by a competent agency in the requesting state indicating the offence of which the person pursued is accused suffices.

(2) Section 29 applies accordingly to the procedure, with the proviso that the person pursued’s consent to the simplified extradition procedure is replaced by his or her consent as required by subsection (1) sentence 1 no. 2, and section 30 (1) and (2) sentences 2 to 4 and (3), section 31 (1) and (4), sections 32 and 33 (1) and (2) also apply to the procedure. It is for the higher regional court which was competent to give decisions on the permissibility of the extradition in the extradition proceedings to give the decisions referred to in subsection (1) sentence 1 no. 1.

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Section 36
Re-extradition

(1) Where extradition has already been effected and a competent agency in a foreign state requests consent to re-extradition, to the extradited person’s transfer for the purpose of enforcement of a penalty or other sanction, or to deportation for the offence on the basis of which extradition was authorised, section 35 (1) sentence 1 and (2) applies accordingly, with the proviso that extradition to the state to which the extradited person is to be re-extradited or transferred would have to be permissible for that offence.

(2) Where extradition has not yet been effected, consent may be given to a request of the type designated in subsection (1) if extradition to the state to which the extradited person is to be re-extradited or transferred would be permissible for that offence. Sections 28 to 33 apply accordingly to the procedure.

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Section 37
Temporary extradition

(1) Where an authorised extradition is deferred because criminal proceedings are being conducted against the person pursued within the area of application of this Act or a sentence of imprisonment or measure of reform and prevention involving deprivation of liberty is to be enforced, the person pursued may be temporarily extradited if the competent agency in the requesting state makes a request to that effect and gives an assurance that the person pursued will be returned by a specific point in time or upon request.

(2) Returning the person pursued may be dispensed with.

(3) Where a determinate sentence of imprisonment or a fine is imposed in the proceedings on account of which the extradition was deferred, the time spent in detention in the requesting state up until return or up until return is dispensed with is credited against that time. Where the extradition was deferred because a determinate sentence of imprisonment is to be enforced against the person pursued, sentence 1 applies accordingly.

(4) It is for the agency competent for crediting the time spent in detention in accordance with subsection (3) to determine, at its discretion, the amount of time to be credited after hearing the public prosecution office at the higher regional court. It may order that no time or only part of the time be credited if

1. time spent in detention in the requesting state has been credited in full or in part against a penalty or other sanction imposed or to be enforced there or

2. the crediting of time is not justified in the light of the person pursued’s conduct following surrender.

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Section 38
Surrender of property in extradition proceedings

(1) The following may be surrendered, in the context of extradition, to the requesting state without the need for a special request:

1. property which may serve as evidence in the foreign proceedings or

2. property which the person pursued or a party to the offence obtained as a result of the offence on account of which the extradition was authorised or obtained for that offence or as consideration for such property.

(2) The surrender of property is only permissible if it is guaranteed that the rights of third parties remain unaffected and on condition that, upon request, property surrendered is returned without delay.

(3) Subject to the conditions of subsections (1) and (2), property may also be surrendered if an authorised extradition cannot be effected for factual reasons.

(4) It is for the higher regional court to give a decision on whether the surrender of property is permissible following an objection by the person pursued, upon application by the public prosecution office at the higher regional court or upon application by any person asserting that their rights would be infringed if the property were to be surrendered. If the higher regional court declares that the surrender of property is permissible, it may require that party which applied for the decision to pay any costs arising to the Public Treasury. Such surrender may not be authorised if the higher regional court has declared it not to be permissible.

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Section 39
Seizure and search

(1) Property in regard to which surrender to a foreign state is being considered as a possibility may be seized or secured by other means even before receipt of a request for extradition. A search may likewise be carried out to that end.

(2) If no higher regional court is yet seised of the extradition proceedings, the seizure and the search are initially ordered by that local court in whose district the measures are to be taken.

(3) In exigent circumstances, the public prosecution office and its investigators (section 152 of the Courts Constitution Act (*Gerichtsverfassungsgesetz*)) are authorised to order the seizure and the search.

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Section 40
Legal counsel

(1) Persons pursued may avail themselves of the services of legal counsel at any stage of the proceedings.

(2) Where persons pursued are arrested, they require the mandatory assistance of legal counsel in the extradition proceedings.

(3) Where persons pursued are not arrested, they require the mandatory assistance of legal counsel in the extradition proceedings if

1. the involvement of legal counsel appears necessary on account of the complexity of the factual or legal situation, in the case of proceedings pursuant to Part 8 Division 2 especially in the case of doubt as to whether the conditions of sections 80 and 81 no. 4 are met,

2. it is clear that they are not in a position to adequately exercise their rights themselves or

3. they are under the age of 18.

(4) If the mandatory assistance of legal counsel is required and the person pursued has not yet mandated legal counsel, then legal counsel is to be appointed for the person pursued upon application or ex officio. If the person pursued has no legal counsel, then, in the cases referred to in subsection (3) no. 1 and no. 2, upon disclosure of the request, the person pursued is to be instructed about the right to apply for legal counsel to be appointed.

(5) Legal counsel is appointed ex officio

1. in the case under subsection (2): without delay following arrest,

2. in the case under subsection (3) no. 3: without delay following disclosure of the request for extradition,

3. in the cases under subsection (3) no. 1 and no. 2: following disclosure of the request for extradition as soon as the conditions set out therein are met.

(6) It is for that court before which the person pursued is to be brought or would have to be brought to give a decision on the appointment. After an application is made pursuant to section 29 (1), it is for the competent higher regional court to give such a decision.

(7) The appointment ends once the person pursued is surrendered or once a final decision is given not to surrender the person pursued. The appointment encompasses procedures pursuant to section 33. If no decision declaring the extradition not to be permissible is given and the person in question is not surrendered, the appointment ends once the public prosecution office at the higher regional court gives a decision not to surrender the person pursued. In the cases under subsection (3) no. 1 and no. 2, the appointment may be revoked if there is no longer a requirement for the mandatory assistance of legal counsel.

(8) The provisions of Book 1 Division 11 of the Code of Criminal Procedure, with the exception of sections 139, 140, 141 and 141a, section 142 (2) and (3), section 143 (1) and (2) sentences 2 to 4 and section 143a (3) apply accordingly. Sections 142 (7), 143 (3) and 143a (4) of the Code of Criminal Procedure apply accordingly, with the proviso that the decision on an immediate complaint (*sofortige Beschwerde*) is given by that court which is competent to give a decision on whether extradition is permissible. There is no right to contest decisions given by the higher regional court as per subsection (6) sentence 2 and subsection (7) sentence 4.

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Section 41
Simplified extradition procedure

(1) The extradition of a person pursued against whom a warrant of arrest pending extradition has been issued may be authorised upon request for extradition or provisional arrest for the purpose of extradition made by a competent agency in a foreign state without the need for a formal extradition process if, following instruction, the person pursued has consented to the simplified extradition procedure and that consent was declared before and placed on record by a judge.

(2) In the case under subsection (1), fulfilment of the conditions of section 11 may be dispensed with if, following instruction, the person pursued consented thereto and that consent was declared before and placed on record by a judge.

(3) Such consent may not be revoked.

(4) Upon application by the public prosecution office at the higher regional court, the judge at the local court instructs the person pursued about the possibility of a simplified extradition procedure and about its legal consequences (subsections (1) to (3)) and then records the person pursued’s statement. The judge at that local court in whose district the person pursued is located is competent in this regard.

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Section 42
Recourse to Federal Court of Justice

(1) If the higher regional court holds that the Federal Court of Justice is required to clarify a legal issue of fundamental importance, or if it wishes to deviate from a decision given by the Federal Court of Justice or from a decision given by another higher regional court after the entry into force of this Act on a legal issue relating to extradition matters, then it must give reasons for its opinion and obtain a decision from the Federal Court of Justice on that legal issue.

(2) The Federal Court of Justice is also asked to give a decision if the Public Prosecutor General or the public prosecution office at the higher regional court applies for a decision to clarify a legal issue.

(3) The Federal Court of Justice gives the person pursued the opportunity to make a statement. The decision is given without a court hearing.

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Part 3
Transit

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Section 43
Permissibility of transit

(1) The transit of a foreign national who is being prosecuted for or has been convicted of an offence in a foreign state which is punishable in that state may, upon request by a competent agency in that foreign state, be effected through the area of application of this Act for the prosecution or enforcement of the penalty or other sanction imposed for the offence.

(2) The transit of a foreign national who has been convicted of an offence in a foreign state which is punishable in that state may, upon request by a competent agency in another foreign state, be effected through the area of application of this Act for the enforcement of a penalty or other sanction imposed for the offence.

(3) Such transit is only permissible if

1. the offence giving rise to the request is punishable, under German law, by imprisonment or would be punishable by imprisonment in the case of analogous conversion of the facts and

2. the documentation relating to the offence giving rise to the request designated in

   a) section 10 (1) sentence 1 in the case under subsection (1) or

   b) section 10 (3) nos. 1 to 3 in the case under subsection (2)

   has been submitted.

Where a request is made for transit for several offences, it is sufficient for the conditions of sentence 1 to be met for at least one of the offences giving rise to the request.

(4) Sections 6 to 8 apply accordingly to such transit.

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Section 44
Jurisdiction

(1) It is for the higher regional court to give the relevant court decisions. Section 13 (1) sentence 2 and (2) applies accordingly.

(2) Local jurisdiction lies with

1. that higher regional court within the area of application of this Act to whose district the person pursued will likely be transferred in the case of transit by land or by sea,

2. that higher regional court in whose district the first stopover is to take place in the case of transit by air.

(3) Where no jurisdiction is established pursuant to subsection (2) no. 2, Frankfurt am Main Higher Regional Court has jurisdiction.

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Section 45
Transit procedure

(1) If it appears that the transit is permissible, the person pursued is kept under arrest to secure the transit.

(2) Such arrest is ordered by way of written arrest warrant (warrant of arrest pending transit) issued by the higher regional court. Sections 17 (2) and 30 (1) apply accordingly.

(3) Such transit may only be authorised if a warrant of arrest pending transit has been issued.

(4) The warrant of arrest pending transit must be disclosed to the person pursued without delay after that person’s arrival in the area of application of this Act. The person pursued is given a copy.

(5) If it is likely that the transit cannot be completed by the end of the day following the day of his or her transfer, the person pursued is to be brought before the judge at the nearest local court without delay, but no later than the day after he or she arrives in the area of application of this Act. The judge at the local court hears persons pursued about their personal circumstances, in particular nationality. The judge must draw their attention to the right to avail themselves of the services of legal counsel (section 40) at any stage of the proceedings and to the fact that they are free to either make a statement or not make a statement regarding the offence of which they are accused. The judge then asks whether and, if so, for what reasons they wish to object to the warrant of arrest pending transit or to the permissibility of the transit. If a person pursued raises objections which are not manifestly unfounded or if the judge at the local court has doubts about continuing that person’s detention or about the permissibility of the transit, then the judge without delay and by expeditious means notifies the public prosecution office at the higher regional court thereof. The public prosecution office is then responsible for ensuring that the higher regional court gives a decision without delay.

(6) Sections 24 and 27, section 33 (1), (2) and (4), and section 42 apply accordingly, as does section 26 (1), with the proviso that instead of a time limit of two months a time limit of one month applies. Section 40 applies accordingly, with the proviso that mandatory assistance of legal counsel is only required if the conditions of section 40 (3) are met.

(7) Any property taken on during transit may be surrendered without a special request at the same time as the person pursued’s transfer.

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Section 46
Transit for temporary extradition

(1) Once authorised, the person pursued’s transit may, upon request by a competent agency in the requesting state, first be effected through the area of application of this Act for the purpose of enforcing temporary extradition and subsequent return.

(2) In the case under subsection (1), the warrant of arrest pending transit may also extend to further transfers.

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Section 47
Unscheduled stopover during transport by air

(1) Where a competent agency in a foreign state has announced that it plans to have a foreign national transported by air through the area of application of this Act without a stopover for the purpose of extradition and that agency gives notification that the documentation as required under section 43 (3) sentence 1 no. 2 and sentence 2 has been received but an unscheduled stopover then becomes necessary, the announcement is treated as a request for transit.

(2) If the conditions of subsection (1) are met, the public prosecution office and police officers are authorised to make a provisional arrest.

(3) Persons pursued are to be brought before the judge at the nearest local court without delay, but no later than the day following their arrest. The judge at the local court hears persons pursued about their personal circumstances, in particular nationality. The judge must draw their attention to the right to avail themselves of the services of legal counsel (section 40) at any stage of the proceedings and to the fact that they are free to either make a statement or not make a statement regarding the offence of which they are accused. The judge then asks whether and, if so, for what reasons they wish to object to the transit or to their being detained.

(4) If it transpires in the course of the hearing that the person brought before the court is not the person designated in the announcement, the judge at the local court orders that person’s release. Otherwise, the judge at the local court orders that the person pursued is to be detained until the higher regional court gives its decision. Section 21 (4) sentence 2 and (7) applies accordingly.

(5) The warrant of arrest pending transit may be issued even before receipt of the documentation designated in section 43 (3) sentence 1 no. 2. It is to be disclosed to the person pursued without delay. The person pursued is given a copy.

(6) The warrant of arrest pending transit is to be lifted where the person pursued has spent a total of 45 days in detention pending transit, calculated from the day of provisional arrest, without the transit documentation having been received. Where a non-European state has announced the transport referred to in subsection (1), the time limit is two months.

(7) Following receipt of the documentation, the public prosecution office at the higher regional court applies for the person pursued to be heard by the judge at that local court in whose district the person pursued is located. Section 45 (5) sentences 2 to 4 applies accordingly. The public prosecution office at the higher regional court then applies for the higher regional court to give a decision as to whether the warrant of arrest pending transit is to be upheld.

(8) Transit may only be authorised if the higher regional court upholds the warrant of arrest pending transit.

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Part 4
Mutual assistance through enforcement of foreign judgments

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Section 48
Principle

Annual statements may be rendered in the current or preceding year, in contrast, subject to the prior authorization of the Federal Commission for Protection against Sanitary Risks, in the case of companies that are not subject to the provisions of the Law on Securities and Stock Exchanges, or in the case of companies that are subject to the provisions of the Law on Securities and Stock Exchanges, in accordance with the provisions of the Law on Securities and Stock Exchanges.

Article 21. Other conditions and prohibitions

(1) Medical products are prohibited if:

1. Their use is not based on the current state of science;

2. The foreign patent or additional patent has been completely or partially revoked in accordance with Regulation (EC) No. 469/ 2009 on the Supplementary Protection Certificate for Medicinal Products (Codified Version) (OJ L 152, 16.6.2009, p. 1), as amended, or the application for a foreign patent or additional patent has been withdrawn, rejected or revoked, or it is known that it will be withdrawn, rejected or revoked in accordance with the relevant provisions;

3. Their use is contrary to public morality or public order;

4. Currently, instances of which are prescribed or in administrative the court does have been suspended;

5. Unless or until the contribution to the protection of the environment, the protection of the health of people or animals, or the protection of plants, or

(other barriers that are offered by law or by the foreign patent law).

(2) Medical products are also prohibited if, in the opinion of the Agency, contain, or based, on genes or cells of human origin, or contain, or based on, genes or cells of animal origin, unless the foreign patent law does not exclude such products from patentability, or if they are based on human blood or human plasma.

(3) Administration of a medical product under Paragraph (1) or (2) is not considered to be a medical product, if it is known that it will be withdrawn, rejected or revoked in accordance with the relevant provisions.

(4) Medical products are also prohibited if:

1. Their use is not based on the state of science;

2. Unless or until the contribution to the protection of the environment, the protection of the health of people or animals, or the protection of plants, or

(other barriers that are offered by law or by the foreign patent law).

(5) The foreign patent for the combination medicine is considered valid by the rights of third parties, that is to say:

1. Its validity is not affected by the revocation of the foreign patent, or

2. The decision is not compatible with a civil decision given after the date of granting of the foreign patent, or

3. The decision which is based on the same facts and the same subject matter as a decision of a court of the Member State concerned is not compatible with the decision of the court of the Member State concerned.

(6) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 22. Authorization of medicinal products

(1) The accreditation procedure is not sufficient to obtain a license whose authorization is permissible, unless the medicinal product is in accordance with the provisions of the Law on Medicinal Products.

(2) Section 20 (1) paragraph 2, 3, 4 and 5 and (2) and section 21 (1) and (2) apply accordingly. If the medicinal product is in accordance with the provisions of the Law on Medicinal Products, the Agency shall issue a license.

(3) The Agency shall inform the Commission and the other Member States of the decision to grant a license. Upon request, the Agency shall inform the public of the decision of the Agency to grant a license and the reasons for the decision.

Article 23. Legal consequences

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 24. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 25. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 26. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 27. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 28. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 29. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 30. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 31. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 32. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 33. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 34. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 35. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 36. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 37. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(4) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 38. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

2. Medicinal products of low consent;

3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

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(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 39. Authorization of medicinal products

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(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

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3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

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(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 40. Authorization of medicinal products

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3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

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(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

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(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

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Article 47. Authorization of medicinal products

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(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

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(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

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(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 48. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

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1. Medicinal products of high consent;

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3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

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(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 49. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

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3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

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(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 50. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

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3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

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(5) The authorization in question, with a combination medicine, is not to be rejected, based the ones of Paragraph (5), if the decision of the court of the Member State concerned, which is based on the same facts and the same subject matter as the decision of the court of the Member State concerned, is not compatible with the decision of the court of the Member State concerned.

Article 51. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

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3. Unless that the medicinal product is not in violation is adequately ensures that rights Nationwide or international patent, or

4. Unless that the medicinal product is not in violation of the rights of the trademark or other rights.

(3) The mandatory requirements of legal consent is required and the authorization under the rule of exemption, if the medicinal product is in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation, and the Agency has not yet issued a decision on the granting of a license.

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Article 52. Authorization of medicinal products

(1) Medicinal products may be placed on the market only after the authorization of the competent Agency in accordance with the provisions of the Law on Medicinal Products and the provisions of this Regulation has been granted.

(2) The mandatory requirements of legal consent is required:

1. Medicinal products of high consent;

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(1) Subject to the provisions of the present Convention, the Contracting States shall be entitled to impose such conditions as they may deem fit for the granting of the permission referred to in the preceding Article. Such conditions may be of a general character affecting a class of aliens or a particular character with respect to individual persons.

(2) Pending the decision of the Contracting States as to the conditions to be imposed on the entry into their territories of the aliens referred to in the preceding Article, the Contracting States undertake to take into consideration the convenience of allowing such aliens to commence the work for which the permission is sought, on the ground that the decision to be taken in the matter by the Contracting States will be in the nature of things, in the case of most of the occupations, a matter of some considerable importance.

(3) Aliens to whom such entry does not extend for a period longer than that for which the permission is granted, shall be treated in the same manner as those who have not been granted any permission.

(4) The Contracting Parties undertake to treat the aliens referred to in the preceding Article, pending the decision mentioned in paragraph (2) of this Article, in the same way as they treat the aliens to whom they have granted permission.

(5) The Contracting Parties undertake to treat the aliens referred to in the preceding Article, after the expiration of the period for which they have granted permission, in the same way as they treat those aliens who have been granted permission for a period of not more than three months.

(6) The Contracting Parties undertake to treat the aliens referred to in the preceding Article, who have been admitted into their territories for a period of more than three months, in the same way as they treat those aliens who have been granted permission for a period of not more than three months.

(7) The Contracting Parties undertake to treat the aliens referred to in the preceding Article, who have been admitted into their territories for a period of more than three months, in the same way as they treat those aliens who have been granted permission for a period of not more than three months.

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(177) The Contracting Parties undertake to treat the aliens referred to in the preceding Article, who have been admitted into their territories for a period of more than three months, in the same way as they treat those aliens who have been granted permission for a period of not more than three months.

(178) The Contracting Parties undertake to treat the aliens referred to in the preceding Article, who have been admitted into their territories for a period of more than three months, in the same way as they treat those aliens who have been granted permission for a period of not more than three months.

(179) The Contracting Parties undertake to treat the aliens referred to in the preceding Article, who have been admitted into their territories for a period of more than three months, in the same way as they treat those aliens who have been granted permission for a period of not more than three months.

(180) The Contracting Parties undertake to treat the aliens referred to in the preceding Article, who have been admitted into their territories for a period of more than three months, in the same way as they treat those aliens who have been granted permission for a period of not more than three months.

(181) The Contracting Parties undertake to treat the aliens referred to in the preceding Article, who have been admitted into their territories for a period of more than three months, in the same way as they treat those aliens who have been granted permission for a period of not more than three months.

(182) The Contracting Parties undertake to treat the aliens referred to in the preceding Article, who have been admitted into their territories for a period of more than three months, in the same way as they treat those aliens who have been granted permission for a period of not more than three months.

(183) The Contracting Parties undertake to treat the aliens referred to in the preceding Article, who have been admitted into their territories for a period of more than three months, in the same way as they treat those aliens who have been granted permission for a period of not more than three months.

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(196) The Contracting Parties undertake to treat the aliens referred to in the preceding Article, who have been admitted into their territories for a period of more than three months, in the same way as they treat those aliens who have been granted permission for a period of not more than three months.

(197) The Contracting Parties undertake to treat the aliens referred to in the preceding Article, who have been admitted into their territories for a period of more than three months, in the same way as they treat those

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1. the establishment of joint investigation teams and the gathering of evidence by such teams,

2. cross-border surveillance and

3. the hearing of an accused by telephone conference.

(3) The securing of evidence for or by another Member State of the European Union is governed by subsection (1). Sections 94 to 96 apply to the securing of property for the purpose of confiscation, unless the Freezing and Confiscation Regulation applies.

(4) The provisions of Part 1 and Parts 5 to 7, as well as the general and special provisions of this Part apply

1. in the absence of special provision made under this Part or

2. if a request was not made in accordance with the provisions of the European Investigation Order Directive.

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Section 91b
Conditions governing permissibility

(1) The rendering of mutual assistance is not permissible,

1. if it, by law, requires specially designated criminal offences or offences of a certain degree of severity, and the offence giving rise to the request does not meet the requirements even, where applicable, in the case of analogous conversion of the facts or

2. insofar as

   a) rights to refuse to give evidence or information, in particular those set out in section 52, 53 or 55 of the Code of Criminal Procedure or provisions which make reference to them, pose an obstacle thereto or

   b) one of the provisions referred to in section 77 (2) of this Act or in sections 18 to 20 of the Courts Constitution Act take effect.

(2) A request in connection with taxes, duties, customs duties or currency exchange activities is also permissible even if German law does not contain the same kind of provisions on taxes, duties, customs duties and currency exchange activities as the law of the requesting Member State.

(3) Section 73 sentence 2 applies, with the proviso that the rendering of mutual assistance is not permissible if there is justified reason to believe that executing the request would not be compatible with the obligations which the Federal Republic of Germany is under pursuant to Article 6 of the Treaty on European Union and the Charter of Fundamental Rights of the European Union.

(4) Section 66 (2) no. 1 and section 67 (1) and (2) apply, with the proviso that no double criminality check is carried out if, under the law of the requesting Member State, the offence giving rise to the request belongs to one of the categories of offences listed in Annex D to the European Investigation Order Directive and is punishable by a sentence of imprisonment or a measure of reform and prevention involving deprivation of liberty of a maximum of at least three years.

(5) If the rendering of mutual assistance is not permissible, the competent agency in the requesting Member State must be notified thereof without delay. Notification is to be made in a form which permits the production of a written record.

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Section 91c
Additional conditions governing permissibility for special types of mutual assistance

(1) Hearings by audio-visual means pursuant to section 61c are not permissible unless the person to be heard consents thereto.

(2) Mutual assistance may only be rendered where, in addition to the conditions referred to in section 91b (1), (3) or (4), the conditions under which German courts or German authorities are permitted to render mutual assistance in accordance with section 59 (3) are met in the case of

1. requests made in the context of proceedings under section 1 (2) or

2. requests for

   a) information in respect of accounts held at a financial institution within the meaning of Article 3 no. 2 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73) whose head office is in Germany,

   b) information about individual account activities or other business conducted in connection with an account as referred to in letter (a) or

   c) investigative measures of a specific duration, in particular requests for

      aa) the monitoring of individual account activities or other business conducted via an account held at a bank within the meaning of section 1 (1) of the Banking Act (*Kreditwesengesetz*) or at a financial institution within the meaning of letter (a),

      bb) the making of controlled deliveries,

      cc) the use of covert investigators or

      dd) the interception of telecommunications.

(3) Section 62 (1) applies, with the proviso that a person may also be transferred temporarily for the purpose of investigative measures other than those referred to therein. Section 62 (1) sentence 1 no. 3, also in conjunction with section 63 (4), does not apply if the person concerned was transferred to the territorial scope of the requesting Member State or to the area of application of this Act and, having had the opportunity to leave that territorial scope for a period of 15 consecutive days from the date when his or her presence was no longer required by the competent agencies, did not do so or returned there after leaving.

(4) Section 91b (5) applies accordingly.

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Section 91d
Documentation

(1) The rendering of mutual assistance is only permissible if the requesting Member State uses the form in Annex A or Annex C of the European Investigation Order Directive, as amended, to make its request and the request

1. has been issued by a judicial authority within the meaning of Article 2 (c) (i) of the European Investigation Order Directive or

2. has been issued by an authority other than that referred to in no. 1 which the requesting Member State has designated as competent therefor and it has been confirmed by an authority pursuant to Section L no. 1 of the form in Annex A of the European Investigation Order Directive.

(2) Receipt of a request made in accordance with subsection (1) is to be confirmed without delay, but no later than one week following its receipt by the competent agency, by means of confirmation of receipt which corresponds to the form in Annex B of the European Investigation Order Directive, as amended. Where a request has been received by an agency which is not competent in the matter, it is to be forwarded to the competent agency; the requesting agency is to be notified of such forwarding as per sentence 1.

(3) If the form referred to in subsection (1) is incomplete or manifestly incorrect and mutual assistance cannot therefore be rendered, the competent agency in the requesting Member State must be notified thereof without delay. Notification is, as a general rule, to be made in a form which permits the production of a written record.

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Section 91e
Authorisation; obstacles to authorisation; deferring authorisation

(1) Authorisation of the rendering of mutual assistance may only be refused if at least one of the following grounds exists:

1. authorisation would prejudice essential security interests of the Federation or of the *Länder*, would jeopardise the sources of information or necessitate the use of classified information relating to specific intelligence activities,

2. final judgment has already been passed upon the person pursued in a Member State other than the requesting Member State for the same offence which gave rise to the request and, in the event of conviction, the sanction has already been enforced, is currently being enforced or can no longer be enforced under the law of the sentencing state,

3. the offence giving rise to the request

   a) was committed outside of the requesting Member State's sovereign territory and in full or in part in Germany or on one of the means of transport referred to in section 4 of the Criminal Code and

   b) is punishable under German law neither as a criminal offence by imposition of a penalty nor as a regulatory offence by imposition of an administrative fine,

4. where, in the case of requests for the temporary transfer of persons from the requesting Member State for proceedings which are pending there pursuant to section 63, the detained person does not consent to the temporary transfer,

5. if, in the case of a request for the use of covert investigators, no agreement can be reached with the requesting Member State in respect of the length of the operation, its precise conditions or the investigators' legal status.

(2) Authorisation of the rendering of mutual assistance may be deferred if

1. it might interfere with ongoing criminal investigations or

2. the evidence being requested is already being used in other proceedings.

(3) Reasons are to be given for decisions relating to authorisation or to the deferment of authorisation.

(4) The competent agency in the requesting Member State is to be notified without delay of any decisions taken pursuant to subsection (1) or (2). In the case of decisions pursuant to subsection (2), the reasons for the delay are to be stated; the expected length of the delay is, as a general rule, to be stated. Section 91b (5) sentence 2 applies accordingly.

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Section 91f
Recourse to other investigative measures

(1) Where a less intrusive investigative measure than that indicated in the request referred to in section 91d (1) is available, then that less intrusive measure is to be taken if the same outcome can be achieved as with the investigative measure indicated in the request.

(2) Recourse is to be taken to an investigative measure other than that indicated in a request referred to in section 91d (1) if the investigative measure indicated

1. is not provided for under German law or

2. would not be available in a comparable domestic case.

(3) Reasons are to be given for decisions given pursuant to subsections (1) and (2).

(4) Before taking recourse to another investigative measure under the terms of subsection (1) or (2), the competent agency in the requesting Member State is to be notified without delay. Section 91b (5) sentence 2 applies accordingly.

(5) If, in the case under subsection (2), no other investigative measure is available which can achieve the same outcome as that stated in the request in accordance with section 91d (1), the competent agency in the requesting Member State is to be notified, without delay, of the fact that it was not possible to render the requested assistance. Section 91b (5) sentence 2 applies accordingly.

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Section 91g
Time limits

(1) A decision on the authorising of mutual assistance is, as a general rule, to be taken without delay, but no later than 30 days after the competent agency receives the request. A decision on authorising requests for the securing of evidence is, as a general rule, to be taken without delay and, where possible, within 24 hours after receipt of the request.

(2) Where there are no grounds for delay pursuant to section 91e (2) or the authority is not already in possession of the evidence requested, the investigative measure is, as a general rule, to be executed without delay, but no later than 90 days after authorisation is given.

(3) Particular requests on the part of the competent agency in the requesting Member State requiring that shorter time limits than those specified in subsection (1) or (2) be complied with or that the investigative measure be carried out at a specific point in time are to be complied with as far as possible.

(4) If the time limit specified in subsection (1) sentence 1 or the particular requests referred to in subsection (3) cannot be complied with for practical reasons, the competent agency in the requesting Member State is to be notified thereof without delay. The reasons and the likely length of the delay are to be stated. Section 91d (3) sentence 2 applies accordingly. The time limit specified in subsection (1) sentence 1 may be extended by a maximum of 30 days.

(5) If the time limit specified in subsection (2) cannot be complied with for practical reasons, the competent agency in the requesting Member State is to be notified thereof without delay. The reasons for the delay are to be stated. Section 91d (3) sentence 2 applies accordingly. A suitable time for the carrying out of the investigative measure is to be agreed with the competent agency in the requesting Member State.

(6) Where requests relate to the cross-border interception of telecommunications which do not require technical assistance from the Federal Republic of Germany to carry out that interception, and the investigative measure would not be authorised in a comparable domestic case, the competent agency in the requesting Member State is to be notified thereof without delay, but no later than 96 hours following receipt of the request, that

1. the interception cannot be carried out or is to be terminated and

2. intelligence which has already been gathered while the surveilled person was in the territorial jurisdiction of the Federal Republic of Germany may not be used or only subject to conditions; the conditions and reasons therefor must be notified.

Section 91d (3) sentence 2 applies accordingly.

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Section 91h
Executing requests

(1) If the conditions for rendering mutual assistance are met, a request as set out in section 91d (1) is to be executed under the same terms as would apply if the request had been made by a German agency; this also applies to measures of compulsion which become necessary in the course of executing the request.

(2) Unless otherwise provided under the European Investigation Order Directive and no core principles of the German legal system pose an obstacle thereto,

1. special formal or procedural requirements indicated in the request as set out in section 91d (1) must be complied with and

2. requests made by authorities in the requesting Member State to participate in an official act are to be complied with.

If special formal or procedural requirements as referred to in sentence 1 no. 1 or requests as referred to in sentence 1 no. 2 cannot be complied with, the competent agency in the requesting Member State is to be notified thereof without delay; section 91d (3) sentence 2 applies accordingly.

(3) Hearings by audio-visual means pursuant to section 61c are conducted under the direction of the competent agency and on the basis of the law applicable in the requesting Member State. The competent German agency participates in the hearing, establishes the identity of the person to be heard and ensures that the core principles of the German legal system are abided by. Accused persons are to be instructed at the start of the hearing about their rights under the law of the requesting Member State and under German procedural law. Witnesses and expert witnesses are to be instructed about those rights to refuse to give evidence or information which they have under the law of the requesting Member State and under German procedural law.

(4) Subsection (3) sentences 1, 2 and 4 applies accordingly to the hearing of witnesses or expert witnesses by telephone.

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Section 91i
Appeals; suspending transmission of evidence

(1) Where a submission is made as specified in section 61 (1) sentence 1 or an application is made as specified in section 61 (1) sentence 2, the higher regional court also reviews, upon application, the decisions referred to in section 91e (3) and in section 91f (1) and (2). Where the decisions referred to in section 91e (3) were based on an abuse of discretionary powers, the court makes such a determination, reverses the decisions to that extent and returns the files for a new decision, in which due consideration must be given to the court's legal opinion; otherwise, the court finds that discretionary powers were properly exercised.

(2) The transmission of evidence to the requesting Member State may be suspended until a decision is given on an appeal which was filed

1. in the requesting Member State against the issuing of a European Investigation Order or

2. within the area of application of this Act.

(3) It is for the competent agency in the requesting Member State to give notification about any appeals filed pursuant to subsection (2) no. 2; section 91d (3) sentence 2 applies accordingly.

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Section 91j
Outgoing requests

(1) Outgoing requests are to be made using the form in Annex A or Annex C of the European Investigation Order Directive, as amended.

(2) If a request is made by an administrative authority in proceedings in accordance with section 1 (2), then before that request is transmitted to the requested Member State it is to be submitted to the public prosecution office for confirmation in accordance with Section L in the form in Annex A of the European Investigation Order Directive. Local jurisdiction lies with the public prosecution office at that regional court in whose district the administrative authority has its seat. The *Länder* may delegate their jurisdiction under sentence 1 to a court or may issue rules concerning local jurisdiction under sentence 2 in another manner.

(3) Confirmation as referred to in subsection (2) is given once the public prosecution office or the court determined in accordance with subsection (2) sentence 3 finds that the conditions for issuing the request are met, in particular that

1. the request satisfies the principle of proportionality and

2. it would be possible to order the investigative measure indicated in the request under the same conditions in a comparable domestic case.

(4) Where, in proceedings under section 1 (2), the right to order the measure is reserved to the judge, the confirmation in accordance with subsections (2) and (3) may also be signed by the court seised of the matter, if so provided by the *Länder*.

(5) Section 69 applies, with the proviso that a person may also be temporarily transferred for the purpose of investigative measures other than those indicated therein. Section 62 (1) sentence 1 no. 3, in conjunction with section 69 (3) or section 70 sentence 1, does not apply if the person concerned was transferred to the area of application of this Act or to the territorial scope of the requested Member State and had the opportunity to leave that territorial scope but did not do so within 15 consecutive days after the competent agencies no longer required his or her presence, or returned there after leaving.

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Special types of mutual assistance

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Section 92
Transmission of information, including personal data, to Member States of European Union

(1) The competent federal and *Land* police authorities may transmit information, including personal data, for the purpose of prosecuting criminal offences upon a request made by a law enforcement authority in a Member State of the European Union in accordance with the provisions of Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union (OJ L 386, 29.12.2006, p. 89; OJ L 75, 15.3.2007, p. 26). Such transmission is effected under the same statutory conditions as apply to a German police authority. The provisions of section 3 of the Federal Criminal Police Office Act on international cooperation between the federal and *Land* police authorities remain unaffected.

(2) When transmitting information in accordance with subsection (1), notification is to be included that it is not permissible to use the information as evidence in court proceedings, unless the authorising authority which is competent to give decisions on requests under Part 5 has consented to such use as evidence. The authority competent to give decisions on requests under Part 5 also decides accordingly on requests for the subsequent authorisation of the use of such information as evidence.

(3) The transmission of information, including personal data, in accordance with subsection (1) is not permissible if

1. this would prejudice essential security interests of the Federation or of the *Länder*,

2. the data to be transmitted are not held by the requested authority and can only be obtained by taking measures of compulsion or

3. transmission of the data would be disproportionate or the data are not required for the purpose for which they are to be transmitted.

(4) Authorisation of a request as referred to in subsection (1) may be refused if

1. the data to be transmitted are not held by the requested authority but can be obtained without taking measures of compulsion or

2. the success of ongoing investigations or a person's life, limb or liberty would be endangered thereby or

3. the offence for the prosecution of which the data are to be transmitted is punishable, under German law, by a sentence of imprisonment of a maximum of one year or less.

(5) A 'law enforcement authority in a Member State of the European Union' within the meaning of subsection (1) is any agency designated by that state in accordance with Article 2 (a) of Council Framework Decision 2006/960/JHA.

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Section 92a
Content of request

A request within the meaning of section 92 (1) sentence 1 may only be authorised if the request indicates the following particulars:

1. the name and address of the requesting law enforcement authority,

2. a designation of the criminal offence for the prosecution of which the data are required,

3. a description of the facts of the criminal offence giving rise to the request,

4. the purpose for which the data are being requested,

5. the link between the purpose for which the information or intelligence is being requested and the person to whom that information relates,

6. details on the identity of the accused insofar as the investigations are being conducted against a known person and

7. reasons to believe that useful information and intelligence are available in Germany.

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Section 92b
Use of information, including personal data, transmitted under Council Framework Decision 2006/960/JHA

Information, including personal data, transmitted under Council Framework Decision 2006/960/JHA to a German police authority may only be used for those purposes for which the transmission was effected or to avert a current and substantial threat to public security. It may only be used for another purpose or as evidence in court proceedings if the transmitting state has consented thereto. Conditions imposed by the transmitting state in respect of the use of such data are to be complied with.

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Section 92c
Data transmission without request

(1) Insofar as provided for by an agreement under international law or in accordance with the provisions of Council Framework Decision 2006/960/JHA, public agencies may, without a request, transmit to public agencies in another Member State of the European Union or of a Schengen Associated State, as well as to the organs and institutions of the European Union personal data giving rise to the suspicion that a criminal offence has been committed if

1. transmission to a German court or a German public prosecution office would also be permissible without a request and

2. the transmission is suited to

   a) instituting criminal proceedings in the other Member State or

   b) moving forward criminal proceedings which have been instituted there and

3. the agency to which the data are transmitted is responsible for the measures to be taken in accordance with no. 2.

(2) Section 61a (2) to (4) applies accordingly.

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Section 92d
Local jurisdiction for requests for interception of telecommunications without technical assistance; authorisation to issue statutory instrument

(1) Local jurisdiction for requests made by Member States of the European Union concerning the cross-border interception of telecommunications without there being any need for technical assistance from the Federal Republic of Germany to carry out the interception lies with

1. the competent court at the seat of the *Land* government of Baden-Württemberg in the case of requests received from the Republic of France, the Republic of Spain and the Republic of Portugal;

2. the competent court at the seat of the *Land* government of the Free State of Bavaria in the case of requests received from the Republic of Italy, the Republic of Croatia, the Republic of Malta, the Republic of Austria and the Republic of Slovenia;

3. the competent court at the seat of the Berlin Senate in the case of requests received from the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania;

4. the competent court at the seat of the *Land* government of Brandenburg in the case of requests received from the Republic of Poland;

5. the competent court at the seat of the Senate of the Free Hanseatic City of Bremen in the case of requests received from the Republic of Ireland;

6. the competent court at the seat of the Senate of the Free and Hanseatic City of Hamburg in the case of requests received from the Kingdom of Sweden;

7. the competent court at the seat of the *Land* government of Hesse in the case of requests received from the Republic of Bulgaria and from Romania;

8. the competent court at the seat of the *Land* government of Mecklenburg-Western Pomerania in the case of requests received from the Republic of Finland;

9. the competent court at the seat of the *Land* government of Lower Saxony in the case of requests received from the United Kingdom of Great Britain and Northern Ireland;

10. the competent court at the seat of the *Land* government of North Rhine-Westphalia in the case of requests received from the Kingdom of the Netherlands;

11. the competent court at the seat of the *Land* government of Rhineland-Palatinate in the case of requests received from the Kingdom of Belgium;

12. the competent court at the seat of the *Land* government of Saarland in the case of requests received from the Grand Duchy of Luxembourg;

13. the competent court at the seat of the *Land* government of the Free State of Saxony in the case of requests received from the Republic of Slovakia and from the Czech Republic;

14. the competent court at the seat of the *Land* government of Saxony-Anhalt in the case of requests received from Hungary;

15. the competent court at the seat of the *Land* government of Schleswig-Holstein in the case of requests received from the Kingdom of Denmark;

16. the competent court at the seat of the *Land* government of the Free State of Thuringia in the case of requests received from the Hellenic Republic and the Republic of Cyprus.

(2) The *Land* governments may, by way of statutory instrument, set deviating regulations in respect of local jurisdiction. The *Land* governments may, by way of statutory instrument, delegate this authorisation to the *Land* departments of justice.

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Section 93
Joint investigation teams

(1) A team member seconded by a Member State of the European Union to a joint investigation team may be entrusted with carrying out investigative measures under the direction of the competent German team member provided this has been authorised by the seconding Member State.

(2) Other persons may be permitted to participate in a joint investigation team pursuant to the legal provisions applicable in the participating Member States or an agreement reached by them.

(3) Officers working in a joint investigation team may directly transmit information, including personal data, obtained in the course of carrying out their official duties to the team members seconded by the other Member States or to other team members insofar as this is necessary for the work of the joint investigation team.

(4) If transmission of information obtained under the condition of subsection (3) requires a special agreement on further processing for another purpose, then it is permissible if it would be possible to authorise a request for the use of the information.

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Section 94
Request for freezing, seizure and search

(1) Outside of the area of application of the Freezing and Confiscation Regulation, section 58 (3) and section 67 apply to requests made in accordance with the provisions of Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (OJ L 196, 2.8.2003, p. 45), as amended by Regulation (EU) 2018/1805 (OJ L 303, 28.11.2018, p. 1) (Framework Decision on Freezing of Property or Evidence), whereby

1. no double criminality check is carried out if the offence giving rise to the request is punishable, under the law of the requesting state, by a sentence of imprisonment of a maximum of at least three years and belongs to one of the categories of offences listed in Article 3 (2) the Framework Decision on Freezing of Property or Evidence,

2. a request in relation to taxes, duties, customs duties and currency exchange activities is also permissible even if German law does not impose the same kind of taxes or does not contain the same kind of provisions on taxes, duties, customs duties and currency exchange activities as the law of the requesting Member State.

(2) Authorisation of requests referred to in subsection (1) is not permissible if

1. a ban on confiscation pursuant to section 77 (1) in conjunction with section 97 of the Code of Criminal Procedure has been imposed or

2. final judgment has already been passed upon the person pursued in a Member State other than the requesting Member State for the same offence which gave rise to the request, provided that, in the case of conviction, the sanction has already been enforced, is currently being enforced or can no longer be enforced under the law of the sentencing state.

This does not apply if the request serves the purpose of preparing an order for confiscation and such a measure could be independently ordered under section 76a of the Criminal Code.

(3) Authorisation of requests for measures as set out in section 58 (3) and section 67 may be deferred as long as

1. they might compromise ongoing criminal investigations and

2. the property to which the request refers has been confiscated or frozen for other criminal proceedings.

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Section 95
Documentation relating to freezing

(1) Authorisation of requests in accordance with the provisions of the Framework Decision on Freezing of Property or Evidence is only permissible upon submission of a freezing order together with a certificate which indicates the following particulars:

1. the name and address of the issuing judicial authority,

2. a description of the property or evidence to which the request for freezing relates,

3. as precise a description as possible of the natural or legal person suspected of having committed the criminal offence under the provisions of the law of the requesting state,

4. a description of the grounds for the freezing order,

5. a description of the circumstances of the commission of the criminal offence, including the time and place of commission, and

6. the nature and legal assessment of the criminal offence, including the statutory provisions on the basis of which the freezing order was made.

(2) If the certificate referred to in subsection (1) was not submitted upon the making of the request or it is incomplete or manifestly does not correspond to the freezing order, the competent authority may set a time limit for its submission, completion or correction. If the certificate referred to in subsection (1) is incomplete but the required particulars can be drawn from the freezing order, the competent authority may waive the need to submit a completed certificate.

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Section 96
Obligation to authorise freezing measures

Requests made by a Member State which are permissible under sections 94 and 95 are to be authorised. If a request is refused for lack of permissibility, reasons must be given for that decision.

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Part 11
Provisions implementing Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders

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Section 96a
Principle

Unless specific provision is made in this Part, section 77 applies.

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Section 96b
Jurisdiction and procedure regarding incoming requests

(1) It is for the local court with jurisdiction under section 67 (3) to give a decision on the recognition and enforcement of incoming freezing orders; section 51 (2) sentence 3 applies accordingly. Where a freezing order is transmitted simultaneously with a confiscation order, it is for the regional court with jurisdiction under section 50 sentence 1 and section 51 to give the decision.

(2) It is for the regional court with jurisdiction under section 50 (1) and section 51 to give a decision on the recognition and enforcement of incoming confiscation orders.

(3) The public prosecution office with jurisdiction under section 50 sentence 2 and section 51 takes receipt of freezing orders and confiscation orders and prepares the court's decision.

(4) Insofar as the public prosecution office has instituted those measures which are suitable and necessary under the conditions of Article 18 (5) of the Freezing and Confiscation Regulation in order to provisionally secure the assets to be enforced, it gives both the person concerned and third parties which, in the light of the circumstances of the case, could assert rights in the object to be enforced the opportunity to make a statement.

(5) Persons concerned may avail themselves of the assistance of legal counsel at any stage of the proceedings.

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Section 96c
Enforcement

(1) After the court has given a decision on the recognition and enforcement of a freezing order or confiscation order, the public prosecution office effects enforcement.

(2) It is for the public prosecution office to give a decision on the postponement of enforcement of a freezing order and a confiscation order in accordance with Articles 10 and 21 of the Freezing and Confiscation Regulation as well as on the impossibility of enforcing a freezing order or confiscation order in accordance with Articles 13 and 22 of the Freezing and Confiscation Regulation.

(3) Jurisdiction for the enforcement of a freezing order or confiscation order which relates to a juvenile or young adult is governed by the provisions of the Youth Courts Act.

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Section 96d
Appeal

(1) Persons concerned may file an immediate complaint in accordance with the provisions of Article 33 of the Freezing and Confiscation Regulation against the decision on the recognition and enforcement of the freezing order or confiscation order.

(2) Where the immediate complaint refers to a decision given by a regional court, section 42 applies accordingly to further procedure.

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Section 96e
Outgoing requests

(1) It is for the public prosecution office to issue and transmit requests for recognition and enforcement of freezing orders or confiscation orders to another Member State. This applies subject to Article 2 (8) (a) (ii) sentence 3 of the Freezing and Confiscation Regulation.

(2) Where an administrative authority competent as regards the prosecution of regulatory offences within the meaning of Article 2 (8) (a) (ii) of the Freezing and Confiscation Regulation has submitted a request for recognition and enforcement of a freezing order in the context of proceedings on a regulatory offence, then, before being transmitted to the requested Member State, the request is to be submitted to the competent public prosecution office for validation. This is to be done using the certificate in Section N of the Freezing Certification in Annex I of the Freezing and Confiscation Regulation. Local jurisdiction lies with the public prosecution office at the higher regional court in whose district the administrative authority has its seat. The *Länder* may delegate the jurisdiction of the public prosecution office under sentence 1 to a court or may issue rules concerning the local jurisdiction of the public prosecution office under sentence 3 in another manner.

(3) Validation as referred to in subsection (2) sentence 1 is given after the public prosecution office or the court determined in accordance with subsection (2) sentence 4 has established that the conditions for the issue of the request are met, in particular that

1. the request satisfies the principle of proportionality and

2. it would be possible to order the investigative measure indicated in the request under the same conditions in a comparable domestic case.

(4) Where the right to order a measure is reserved to the judge, the validation referred to in subsections (2) and (3) may also be effected by the court seised of the matter, if so provided by the *Länder*.

(5) Section 96b (5) applies accordingly.

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Section 97
(repealed)

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Part 12
Protection of personal data in mutual assistance matters within European Union and with Schengen Associated States

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Section 97a
Scope of application

(1) The provisions of this Part apply to personal data which are transmitted to or received by Member States of the European Union to which Directive (EU) 2016/680 applies or organs, institutions, offices and agencies of the European Union.

(2) Schengen Associated States are equal to the Member States of the European Union as referred to in subsection (1) in respect of the application of this Part.

(3) In the absence of special provision made under this Part, the provisions of Part 7 Division 2 apply.

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Section 97b
Transmission of personal data

Section 77d applies to the transmission of personal data, with the proviso that its

1. subsection (1) no. 2, also in conjunction with subsection (3) and section 77e (1) no. 7,

2. subsection (1) no. 3, also in conjunction with subsection (4) and section 77e (1) no. 4, and

3. subsection (1) no. 4, in conjunction with section 77f,

does not apply.

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Section 97c
Transmitting agency's verification, reporting and logging obligations

In addition to the obligations set out in section 77e, in the event of any breach of the protection of personal data, the agency in another Member State of the European Union from which or to which personal data have been transmitted must be notified without delay of the information referred to in section 65 (3) of the Federal Data Protection Act (*Bundesdatenschutzgesetz*).

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Part 13
Mutual assistance in extradition and transit matters with Republic of Iceland and Kingdom of Norway

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Section 98
Precedence of Part 13

(1) This Part applies to mutual assistance rendered in extradition and transit matters with the Republic of Iceland and the Kingdom of Norway under the Agreement of 28 June 2006 between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway (OJ L 292, 21.10.2006, p. 2).

(2) In the absence of special provision made under this Part, the provisions of Part 8, with the exception of section 79 (1) sentence 1, section 80, section 81 no. 4, section 83c (5), section 83f (3) and section 83i, apply accordingly and, in accordance with section 78, the other provisions of this Act apply.

(3) Sections 35 and 36 apply, with the proviso that if authorisation of extradition is extended or in the case of the person pursued being re-extradited to Member States of the European Union, to the Republic of Iceland or to the Kingdom of Norway, then in derogation from section 35 (1) sentence 1, approval is to be given. Section 83a (1) and section 83c (6) apply accordingly in that respect. Sections 38 and 39 apply, with the proviso that, if the relevant conditions are met, the obligation arises to take the measures.

(4) In the applicable provisions of Part 8, the Member State is replaced by the Member States of the European Union as well as the Republic of Iceland and the Kingdom of Norway; the European Arrest Warrant is replaced by a request for extradition based on an arrest warrant within the meaning of Article 2 (5) of the Agreement of 28 June 2006 between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway. Further, that Agreement takes the place of the European Arrest Warrant Framework Decision in the applicable provisions of Part 8.

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Section 99
Obligation to authorise request

Permissible requests made by the Republic of Iceland and the Kingdom of Norway for the extradition or transit of a foreign national may only be refused insofar as provided for in this Part or under the other applicable provisions of this Act.

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Part 14
Final provisions

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Section 100
Reservation of application; time limit

The provisions of Part 9 Division 2 on the enforcement of financial penalties under the Framework Decision on Financial Penalties are only applicable to financial penalties pursuant to section 87 (2) no. 1 and no. 4 if they became final after 27 October 2010. In the case of financial penalties under section 87 (2) no. 2 and no. 3, the provisions referred to in sentence 1 only apply if the non-judicial decision imposing the financial penalty was given after 27 October 2010.

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Section 101
Transitional provision regarding requests based on decision in absentia

In derogation from section 83a (1), section 83f (1), section 87a no. 2, section 88b (1) and section 88c no. 1, submission of the European Arrest Warrant or of the certificate referred to in those provisions is also permissible in the version available prior to 28 March 2011, provided that the requesting Member State of the European Union transmits, in another manner, the additional particulars which are required in accordance with Articles 2 to 4 of Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial (OJ L 81, 27.3.2009, p. 24). This rule will no longer be applicable once the last Member State of the European Union has transposed Framework Decision 2009/299/JHA into its national law. The Federal Ministry of Justice and Consumer Protection is to announce, in the Federal Gazette, the date from which sentence 1 is no longer applicable pursuant to sentence 2.

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Section 102
Transitional provision regarding enforcement of sanctions involving deprivation of liberty

Sections 84 to 85f do not apply in relations with the Kingdom of the Netherlands, the Republic of Latvia, the Republic of Lithuania, the Republic of Poland, with the Republic of Ireland and the Republic of Malta if the judgment on which enforcement of the sanction involving deprivation of liberty is based was issued before 5 December 2011.

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Section 103
Transitional provision regarding requests for other types of mutual assistance

Part 10 Division 2 does not apply to requests received by the agency responsible for authorisation before 22 May 2017.

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Section 104
Equal status of foreign and domestic public officials in respect of official acts in Federal Republic of Germany

Judges and other public officials of another Member State of the European Union who are present in the sovereign territory of the Federal Republic of Germany when carrying out official acts under Part 10 Division 2 are equal, for the duration of their stay, to German judges and other German public officials in respect of criminal offences which they themselves commit or which are committed to their detriment or against them.

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Section 105
Compensation for damage

(1) Where another Member State of the European Union compensates the injured party, or a party who succeeds the injured party, for damage caused by German judges or other German public officials in the course of carrying out official acts under Part 10 Division 2 in the sovereign territory of the other Member State, it may demand compensation therefor from the Federal Republic of Germany.

(2) Damage caused by judges or other public officials of another Member State of the European Union in the course of carrying out official acts under Part 10 Division 2 in the sovereign territory of the Federal Republic of Germany is compensated by the competent holder of public authority in Germany to the extent that it would have to be compensated under German law if German judges or other German public officials had caused the damage.

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Section 106
Restriction of fundamental rights

The fundamental rights to physical integrity (Article 2 (2) sentence 1 of the Basic Law), freedom of the person (Article 2 (2) sentence 2 of the Basic Law), privacy of correspondence, post and telecommunications (Article 10 (1) of the Basic Law), inviolability of the home (Article 13 of the Basic Law) and protection against extradition to a foreign country (Article 16 (2) sentence 1 of the Basic Law) are restricted in accordance with the provisions of this Act.