



Guideline on the Handling of Addresses in Market and Social Research

This English version of this Guideline is a translation of the original German version; in the event of variances, the German version shall take precedence over the English translation.

This guideline is issued by the associations for market and social research in Germany:

- ADM Arbeitskreis Deutscher Markt- und Sozialforschungsinstitute e. V.
- Arbeitsgemeinschaft Sozialwissenschaftlicher Institute e. V. (ASI)
- BVM Berufsverband Deutscher Markt- und Sozialforscher e. V.
- Deutsche Gesellschaft für Online-Forschung – DGOF e. V.

1 Introduction

This guideline defines and specifies how the data protection provisions are to be applied to the handling of addresses and – where applicable – other personal data, when carrying out studies for market and social research. Beyond this, it prescribes the ethical and professional rules of conduct associated with them. Market and social research is used as a generic term which also includes, in particular, media and opinion research.

This guideline is always to be applied in conjunction with the “ICC/ESOMAR International Code on Market, Opinion and Social Research and Data Analytics” prefaced by the “Declaration for the Territory of the Federal Republic of Germany”, as well as the various guidelines issued by the associations for market and social research in Germany.

2 Legal framework

The EU-GDPR and the new German Federal Data Protection Act (BDSG) govern the processing of personal data, irrespective of whether this is done using data processing systems or non-automated filing systems.

The addresses of natural persons are per se personal data; the addresses of companies and organizations are personal data if they also contain names of individuals (owners, employees) or if they can be assigned to specific or identifiable individuals, for example through the description of a function (e. g. head of purchasing department) or the expression of an opinion.

Personal data that is subject to the secrecy of social data is governed by the regulations of § 35 German Social Code I (SGB I).

In this guideline, the term addresses refer to any information which allows the data subjects to be contacted directly; in particular their name, postal address, phone number, fax number, email address.

The EU-GDPR and other data protection provisions in other laws do not cover survey or observation data that is not linked to an identifiable natural person. It must not be possible for the data to be linked to an identifiable natural person, either directly via their name and/or address or indirectly by being identifiable based on other characteristics.

3 Definitions of key terms

3.1 Personal data

Personal data is “any information relating to an identified or identifiable natural person (“data subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person” (Article 4(1) EU-GDPR).

3.2 Processing

According to Article 2, the EU-GDPR applies to the processing of personal data wholly or partly by automated means and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.

Processing means “any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction” (Article 4(2) EU-GDPR).

3.3 Processing special categories of personal data

“Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data,

biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited" (Article 9 EU-GDPR). Article 9(2) EU-GDPR provides for exceptions to this, for example when the data subject gives explicit consent (Article 9(2a) EU-GDPR).

According to § 27 of the new BDSG (German Federal Data Protection Act), by derogation from Article 9(1) EU-GDPR, the processing of special categories of personal data shall be permitted also without consent for scientific research purposes, if such processing is necessary for these purposes and the interests of the controller in processing the data substantially outweigh those of the data subject in not processing the data. The controller must provide for appropriate and specific measures to safeguard the interests of the data subject (§ 27 (1) BDSG-new, German Federal Data Protection Act).

Since the sensitivity of personal data also depends on the context, a broad definition of the category of "special categories of personal data" needs to be chosen in market and social research. If special categories of personal data are the only data that is to be collected in market and social research, explicit consent must be obtained at the start of the interview. However, if special categories of personal data are to be collected together with other personal data, the necessary explicit consent must be obtained by means of an additional transitional question – the answer to which must be recorded – or by an appropriate wording of the question and response options, unless the questions are part of an extensive set of questions that is asked at the beginning of the interview anyway. Respondents who refuse to answer questions about a "special" subject matter must be directed to the next set of questions.

3.4 Anonymisation and pseudonymisation

Personal data which has undergone pseudonymisation but which could be attributed to a natural person by the use of additional information should be considered to be information on an identifiable natural person (Recital 26 EU-GDPR).

Pseudonymous data is not anonymous data. If data is collected and stored from the outset without reference to an identifiable natural person, and if the data is anonymous information, i. e. information which does not relate to an identified or identifiable natural person or to personal data anonymised in such a manner that the data subject is not or no longer identifiable, then the EU-GDPR does not apply (any longer). To determine whether data is pseudonymised or anonymised, i. e. whether a natural person is identifiable, account should be taken of all the means reasonably likely to be used, either by the controller or by another person, to identify the natural person directly or indirectly (Recital 26 EU-GDPR).

3.4.1 Anonymisation

Anonymisation is "the modification of personal data so that information concerning personal or material circumstances cannot be attributed to a specific or identifiable natural person or that such attribution would require a disproportionate amount of time, expense and effort" (cf. Gola, Commentary on EU-GDPR, 2nd Edition, Article 4, margin number 41).

The data collected during market and social research must be anonymised as soon as this is possible in the light of the purpose of the research project for which it was collected. In addition, details must be omitted from data containing no reference to an address if such details could result in the identification of an individual (e. g. the vehicle identity number of a car, or a combination of profession and place of residence).

3.4.2 Pseudonymisation

Pseudonymisation is "the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person" (Article 4(5) EU-GDPR).

Pseudonymised data are still personal data.

The data collected during market and social research must be pseudonymised as soon as this is possible in the light of the purpose of the research project for which it was collected. To do so, address data and survey data are stored separately and shared code numbers are assigned to both, in order to allow the address data and survey data to be recombined. In the case of single surveys, this is only done temporarily and exclusively for purposes of performing quality checks on the data collected; in the case of follow-up or repeat surveys, it is also done with the prior consent of the respondents until the overall study has been completed, in order to be able to link the survey data from the different interviews as necessary.

As long as it is possible to recombine the address data and survey data, the survey data, too, is considered to be personal data under the terms of the EU-GDPR and the new German Federal Data Protection Act (BDSG).

4 Origin of addresses

Addresses for the purposes of market and social research may come from the following sources:

- Publicly available sources (4.1)
- Address publishers (4.2)
- Residents' registration offices (4.3)
- Clients (4.4)
- Recruiters (4.5)

Regardless of the origin of the addresses, their use must comply with the General Data Protection Regulation and the professional code of conduct in German market and social research.

4.1 Addresses from publicly available sources

The use of addresses from publicly available sources is based on Article 6(1)(f) EU-GDPR as a legal basis. It may be assumed in general that the interests of the data controller in using the data for the purpose of anonymous and scientific market and social research outweigh the data subject's interests in protecting his or her data.

4.2 Addresses from address publishers which are based on consent

It is not permissible for personal data collected in the course of an interview or observation to be transferred to the address publishers. It is only permissible to report to the address publishers by name double entries and addresses that cannot be located or that do not belong to the target group. Reporting addresses that do not belong to the target group must be limited to this fact and must not include any adjustment of this target group feature of the address.

To the extent that the addresses do not come from publicly available sources, the purchaser must obtain evidence of consent (for example, by examining a sufficiently large sample of the consent forms claimed by the seller) and verify their content to determine whether they are sufficient for the intended use.

4.3 Addresses from residents' registration offices

The use of addresses from residents' registration offices requires a public interest. Proof of this is required by the residents' registration offices in accordance with the relevant laws and regulations for their implementation, which also govern the handling of addresses.

4.4 Addresses from clients

Addresses may be made available to research agencies by clients with a data processing agreement in order to use these addresses for contacting purposes as bound by instructions. In this case too, the requirement of anonymity applies. The client remains the controller with respect to the data subjects in terms of their contact details. The agency becomes the controller of the data collected after contact has been made (survey data), including whether or not a contacted person participated, as this constitutes personal data.

When addresses are transmitted, the provisions of the EU-GDPR and, where applicable, other provisions, such as the provisions of the German Social Code (for all data that is subject to the secrecy of social data pursuant to § 35 SGB I), the German Telecommunications act (requirement of consent for data from providers of telecommunications services pursuant to § 95(2) TKG), must be observed.

Providing information about double entries or untraceable addresses by name is only permissible if it is restricted to this fact and the main purpose of the contract is not to clean up the address database maintained by the client (in which case it would not be for the purpose of research).

4.5 Data from recruiters

To the extent that personal data is transmitted to agencies by recruiters in a specific case, this is not a case of data processing and, in principle, not a case of joint controllership. The recruiter is and remains the controller of the addresses in its database. When these addresses are used by the agency, the agency itself is the controller within the meaning of the EU-GDPR. Should the recruiter and the agency be joint controllers in a specific case, they must enter into a contract in accordance with Art. 26 EU-GDPR.

4.6 Digression: Recruitment of respondents by treating physicians

In demographic health research, respondents for certain studies are recruited in collaboration with treating physicians. This is necessary in particular when the research goal calls for interviewing people with specific clinical conditions or health complaints and the corresponding therapies and when the respondents cannot be recruited using other screening procedures.

Two procedures are available for recruiting respondents in collaboration with treating physicians. The physician agrees to inform patients who meet the necessary criteria about the survey – while pointing out the voluntary nature of participation – and either

1. hands over a questionnaire supplied by the research agency to patients willing to participate, taking back the completed questionnaire and passing it on to the research agency conducting the research (Note: The questionnaires must contain neither the names nor the address data of the respondents, nor any other details that could lead to their identification. Nor must the physician pass on the names and address data of patients who have participated in the survey in any other form.)

or else

2. asks for the consent of patients willing to participate and passes on their names and addresses to the agency conducting the research.

In the first procedure, the patients participating in the survey do not need to release the physician from the obligation of medical confidentiality, since no personal data of the patient is passed on. In the second procedure, the physician must provide evidence that he or she has been released from the obligation of medical confidentiality.

4.7 Collaboration between research agencies

When private-sector and/or academic research agencies collaborate in market and social research (also in the capacity of contractor and client), it may be necessary for them to jointly use address data and possibly also survey data in a personalised form. The joint use or transfer of address data to the other research agency is permissible, provided the participants are adequately informed about the origin of the address and their right to object to its use when they are approached by the research agency conducting the research.

The joint use of the survey data is permissible provided the participants are informed as to the purpose and scope of the joint use of their survey data in a personalised form and they give their consent to it.

The joint use of address data and possibly also of survey data in a personalised form must be agreed upon contractually in advance by the research agencies. In most cases, a contract specifying them as being joint controllers in accordance with Art. 26 EU-GDPR is also necessary. Joint use of the data is only permissible if it occurs exclusively for research purposes.

4.8 Storage of self-collected addresses

4.8.1 Single surveys

In the case of single surveys, addresses may be stored only for conducting quality checks and where necessary for data editing before the completion of fieldwork. They must be deleted or irreversibly separated from the survey data as soon as these research steps have been completed.

4.8.2 Follow-up or repeat surveys and recruiting panel members

In the case of follow-up or repeat surveys and when recruiting panel members, names and addresses as well as selection criteria of individuals and households may be stored if the data subjects have agreed to participate in later or continuous studies and have consented to the necessary storage of their data. The selection criteria must be stored separately from the names and addresses. The merging of the data, which is necessary for selecting specific respondents, is done by means of a code number.

In follow-up or repeat surveys, too, the use of the stored data for purposes other than those research purposes communicated to the recruited individuals and households is not allowed. Storing information about previous participation is permitted in order to allow an overview of the time intervals between surveys and to avoid contacts being too frequent. Once the last intended survey has been completed, the names and address data of the respondents must be deleted. They must be deleted immediately if the respondent states in the meantime that he/she does not wish to participate in any further studies.

When individuals or households are recruited face-to-face or in writing for follow-up or repeated surveys, or for access panels, the "Statement on data protection and the total confidentiality of your responses to verbal or written interviews" must be handed over.

When they are recruited by telephone, this statement must either be sent subsequently or be handed over at the time of the first personal or written contact. If there is no personal or written contact, the statement must be sent to the respondent subsequently if the respondent requests.

In the case of online surveys, the "Statement on Data Protection" must be displayed to participants on the screen and the option of printing it out must be provided, or else it must be made available in some other suitable form.

The content of the "Statement on Data Protection" must be adapted to fit the data collection method used.

4.9 Addresses provided by private individuals

If the methodological approach used in a study requires that the addresses of additional persons belonging to the study's target group be supplied to the research agency by already existing respondents (snowball sampling), the research agency must explicitly provide those additional persons with all the information required by Article 14 EU-GDPR, including the origin of the addresses, the voluntary nature of participation and their right to object, when it asks them for their consent to participate in the study.

5 Duty to provide information and right to object

5.1 Duty to provide information

When making contact, the following information must be provided in accordance with Article 13 EU-GDPR:

- the identity of the research institution or the controller, if this is not the research institution, in a comprehensible manner that can be understood without difficulty by the data subjects
- the general purpose and the legal basis (incl. the legitimate interests) for making contact;
- the voluntary nature of participation, if this is not obvious;
- the recipients or categories of recipients of the personal data (e. g. field service provider, market research agency, research groups);
- where applicable: transfer to a third country;
- duration of storage (e. g. destruction after end of project);
- right to withdraw consent;
- the source of the personal data and the right to object to its transfer and/or use;
- the contact details of the data protection officer;
- where relevant: the existence of automated decision-making;
- the rights of access, rectification, erasure and restriction, as well as the right to object to processing and the right to lodge a complaint with the data protection supervisory authority.

If this information and further explanations cannot be communicated in a transparent and comprehensible manner, they must be given to the respondent in writing by letter, fax or email or made available for download over the Internet.

The link between the survey data and the names, telephone numbers, addresses and email addresses of the respondents must be irreversibly removed at the earliest possible time, but no later than on completion of the project.

5.2 Repeat, follow-up or panel surveys

In the case of repeat, follow-up or panel surveys, consent must also be obtained during the first interview to store the address data needed for the subsequent interview(s), such as name, telephone numbers, addresses, email addresses and selection criteria. If consent is not given, then this first interview is considered a one-time interview as in a single survey.

If consent is given to storing contact data without the respondent first being informed that contact and survey data from the initial interview will be reused for repeat or follow-up interviews, such consent is legally void.

The manner in which the repeat or follow-up interview(s) are to be conducted must be communicated at the time of the initial interview. Likewise, respondents must be informed if the nature of the repeat interview has not yet been decided.

In the case of repeat or follow-up surveys, respondents must receive suitably modified information on data protection, at the latest when they are contacted again. Depending on the target group and the topic of research, it may be useful to make this information on data protection available immediately after the initial interview.

It needs to be observed whether the initial and repeat or follow-up interview(s) will be conducted by different research institutions. The respondent's consent to repeat or follow-up surveys carried out by a different research institution must be obtained from the respondent before he or she is contacted by that research institution.

5.3 Right to object and right to withdraw

The EU-GDPR distinguishes between the right to object to processing (without consent) in accordance with Article 6(1)(f) EU-GDPR and the right to withdraw consent to data processing under Article 7(3) EU-GDPR.

5.3.1 Right to object

According to Article 21(1) EU-GDPR, the data subject shall at any time have the right to object, on grounds relating to his or her particular situation, to processing of his or her personal data which is based on Article 6(1)(f) EU-GDPR. In such cases, the controller shall no longer process the personal data unless the controller demonstrates compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims. Where personal data is processed for scientific research purposes, objections can only be raised if the processing is not necessary for the performance of a task carried out for reasons of public interest.

According to Article 21(4) EU-GDPR, the right referred to in Article 21(1) EU-GDPR shall be explicitly brought to the attention of the data subject at the latest at the time of the first communication with the data subject and shall be presented clearly and separately from any other information.

If the objection raised by the contacted person only applies to the processing or use of his/her data by the research agency carrying out the study, this data must be blocked on the level of the research agency. If the objection applies to the processing or use of the data for the purposes of market or opinion research in general, the research agency, in addition to blocking the data within the agency, must also inform the controller (usually the client or a mailing house) who transmitted the address data of this objection, so that the data can be blocked there, too.

5.3.2 Right to withdraw

Where processing is based on consent, the controller shall be able to demonstrate that the data subject has consented to processing of his or her personal data. The data subject shall have the right to withdraw his or her consent at any time (Article 7(3) EU-GDPR). The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.

6 Use of the addresses

6.1 Addresses for gross samples

Gross samples are drawn from stored addresses belonging to the research agency, transferred from external parties or by the client, or made available under the terms of Article 28 EU-GDPR. The addresses or telephone numbers are prescribed to the interviewers in order for them to conduct the survey, or – in case of written surveys or online surveys –

they form the basis for mailing questionnaires or for email invitations to participate in the survey.

6.2 Addresses from net samples

A net sample comprises the interviews actually conducted on the basis of a gross sample. In the case of a single survey, the addresses must be separated from the survey data as soon as possible and destroyed, or they must be anonymised in such a way as to make it impossible to recombine them with the survey data. In online surveys, the address data must a priori be stored separately from the survey data or separated from the survey data when they are returned, and deleted as soon as possible.

If respondents have agreed to participate in a follow-up or repeat survey, the address data must be separated from the survey data immediately, too, and must be stored separately until they are re-used. After the last wave of surveys has been completed, and also when respondents withdraw their consent to participate in a follow-up or repeat survey, the same rules apply as for single surveys.

6.3 Augmenting a sample with secondary data

The data collected in the course of an study may be augmented with data already available to the client,

- if the research objective so requires,
- the anonymity of the respondents is preserved with respect to the client, and
- the respondents are informed about the additional initially personal (later to be anonymised) data with which the research results are to be augmented by the research agency (Art. 14 GDPR).

It needs to be observed that augmenting corporate survey data with data on production, turnover, orders etc. must not allow individual companies to become identifiable to the client either.

Since mere participation in a survey is in itself personal data, clients must not be given an address file of the net sample in order to augment the sample. Hence augmentation may only be performed on the gross sample, preferably in advance (when the addresses are transferred) or later (with the research agency matching them for the net sample).

When data is transmitted by the client for the purpose of augmenting the sample, the client is responsible for ensuring that the transferred data may lawfully be processed.

6.4 Addresses not resulting in interviews (non-responses)

The names and address data of such persons must be marked accordingly in order to be able to check the random sampling.

Reusing these addresses to increasing the sample response rate is permissible provided those people are excluded who have forbidden further contacts for this survey and/or have refused any form of participation in market and social research surveys. The addresses of such people must be deleted immediately. The remaining addresses which did not lead to an interview must be deleted analogously to the addresses in the net sample.

6.5 Marking of the gross sample by the client to avoid excessively frequent interviews

It is permissible for the client to mark the addresses of the gross sample in order to avoid repeated, multiple or excessively frequent interviews of the same person or company for methodological reasons. By contrast, it is not permissible to transmit the net sample to the client for that purpose, since the information about having participated in a study in itself already constitutes personal data.

6.6 Provision of incentives to participants

Since it is not permissible to transmit the net sample to the client, incentives to the participants of a study cannot be delivered by the client but only by the research agency carrying out the study itself, or by a party commissioned to deliver the incentives. When another party is commissioned to deliver the incentives, participants must be informed about the necessary transfer of their address data and give their consent to the transfer. The commissioned party must be contractually obliged not to pass on the addresses to third parties, to use them only for delivering the incentives and to delete them immediately afterwards.

6.7 No transfer of personal data at respondents' request

When conducting studies for market and social research, individual respondents sometimes spontaneously request that their survey data be transmitted to the client in a personalised form, despite the assurance given at the beginning of the interview that they will be rendered anonymous, or else they may ask for the client to get in touch with them.

In such cases the research agency carrying out the study is only permitted to give these persons the appropriate address at which to contact the client, since the agency is not allowed to transmit any personal data to the client. This also applies in the event of a contractual relationship according to Article 26 or 28 EU-GDPR. The permissibility of communicating the address at which to contact the client is always conditional upon the corresponding request by the respondent being made spontaneously and not being the result of a specific question or corresponding remark of the interviewer.

7 Data security measures

Pursuant to Article 32 EU-GDPR, research agencies are required to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk.

When processing personal data on behalf of the client pursuant to Article 28 EU-GDPR, the client shall be the controller responsible for compliance with the provisions of data protection law. This means the client is not only entitled but according to Article 28 EU-GDPR actually obliged to verify compliance with the technical and organisational measures taken by the processor before data processing begins and at regular intervals thereafter.

8 Final provisions and disclaimer

This guideline forms part of the Code of Conduct that govern German market and social research, resulting as they do from

the law and the methodological standards, but also from common practice. It always applies when studies for market and social research are carried out in Germany or from Germany. It therefore also applies when such studies are carried out from abroad in order to conduct research in Germany.

The principles and practices described in this guideline are, inter alia, the result of weighing up the personal rights of the data subjects on the one hand, and the right to conduct research, together with the resulting methodological requirements, as well as the freedom of information on the other. The issuers cannot guarantee indemnity. It cannot be ruled out that case law may result in different standards regarding the permissibility of the handling of addresses in market and social research.

First version October 1998, last revised January 2021

Sample text

Statement on data protection and the total confidentiality of your responses to verbal or written interviews

(Name of research agency) operates in accordance with the provisions of the European General Data Protection Regulation (EU-GDPR) and all other data protection regulations.

This also applies to a repeat or follow-up survey, where it is important to conduct another interview with the same person after a certain period of time and to perform the statistical analysis in such a way that the information from several surveys is linked using a code number.

Here too: **No data will be transferred by which you can be personally identified!**

As in the case of single surveys, the research findings are presented exclusively **in an anonymous form**. This means: No one can tell from the results which person provided the information. Overleaf, we have provided an example of the path taken by your data from the time that it is collected up until the completely anonymous table of results.

If the person being asked to participate is under the age of 18 years and no adult is currently present: Please also show this form to your parents and ask them to approve and acknowledge it.

Responsible for compliance with the data protection regulations:

(Name and full address of the research agency)

(Name of the head of the research agency)

(Name of data protection officer)

What happens to your information?

1. Your answers to the questions are entered into the form by our employee or by yourself, for example like this:

What means of transport do you mainly use to get to work?

National rail service (...) Suburban/underground railway (...) Bus (...)
etc.

2. The address and the question section are separated from each other by (name of research agency). Any discrepancies in the answers are clarified beforehand, to ensure that only correct data is processed. The address and question section are given a code number.

Anyone seeing the questionnaire, therefore, does not know which person gave the answer. The address remains with (name of research agency), but only until the overall study has been completed. It is used only to conduct random checks on the interviewers (by calling you on the phone or sending you a postcard asking you to confirm that the interview was conducted) and, where appropriate, to visit, write to or call you again later for a further interview.

3. Your answers to the questions asked are converted into numbers and stored **without your name and address** (i.e. they are anonymised) for the analysis.

4. The interview data (without names and addresses) is then analysed by a computer. For example, the computer might count all the responses per mode of transport and calculate the results as a percentage.

5. The overall result and the results of subgroups (e. g. blue-collar workers, white-collar workers) are then printed in the form of a table:

Which means of transport?

	Total	Blue	White
National rail service	10 %	15 %	7 %
Suburban/underground railway	5 %	7 %	3 %
Bus	25 %	20 %	30 %

6. In the case of a repeat or follow-up survey, too, your name and address will always be separated from the data in the question section. During the analysis, the computer compares the responses for each person – while performing its calculations –, but it does this using the code number (never using names!) and then prints the results anonymously, just like in a single survey.

7. In all cases:

- Participation in the interview is **voluntary**. If you choose not to participate you will not suffer any disadvantages.
- Needless to say, (name of research agency) complies with **all data protection regulations**.

You can be sure that

- no one will know what answers you have given.
- your name and address will not be disclosed to any third parties.
- no individual data that would allow you to be personally identified will be passed on to any third parties.

Thank you for very much for your participation and your trust!