



Guideline on the Handling of Databases 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

The pluralisation of value orientations and attitudes in society and the differentiation of goods and services has led, among other things, to an individualisation of attitudes, needs and behaviours and thus of styles of consumption. The relationships between suppliers of goods and services and their customers are becoming individualised accordingly.

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 associations for market and social research in Germany.

Aside from the professional ethics and legal framework for market and social research laid down in the code of conduct, the scientific handling of databases – like all aspects of market and social research – also requires the compliance with the methodological requirements of market and social research, as documented in the quality standards for market and social research, as well as the principles of ethical research behaviour.

2. Definitions

2.1. Identification numbers

In this guideline, the term “identification number” refers to any result of mathematical statistical operations that is calculated, i.e. altered within the meaning of Article 4(2) EU-GDPR, from characteristics stored in databases or from data specifically collected for that purpose or from existing information, in the form of indices, types or suchlike, and that is assigned to individual data records (cases) as a statistical expected value.

2.2 Mathematical statistical classification or assignment procedures

In this guideline, the term “mathematical statistical classification or assignment procedures” refers to all procedures on the basis of which identification numbers are assigned to the individual cases recorded in a database on a case-by-case basis according to probabilities.

2.3 Databases

In this guideline, the term “database” refers to any collection of interconnected data which consist of a number of homogeneous data records (cases).

2.4 Personal databases

In this guideline, the term “personal database” refers to any database that contains personal data as defined in Art. 4(1) EU-GDPR, either exclusively or together with other types of data.

2.5 Research institutions

Research institutions can be private-sector market and social research agencies, as well as academic and university research facilities, corporate research departments, local authorities, institutions for official statistics and individual researchers working along the same lines.

3. Operators of databases

3.1 General

The databases used in market and social research can be maintained by

- research institutions (3.2.),
- their clients (3.3) or
- other institutions (3.4).

3.2 Databases maintained by research institutions

If research institutions maintain databases containing the personal data of participants in studies for market and social research, these shall be used exclusively for carrying out follow-up or repeat interviews and for organising (access) panels. They contain the names and address data of persons willing to participate in research, along with details of various

characteristics which can be used as selection criteria for participating in further studies.

Maintaining such databases is permitted if the data subjects have been informed about the processing of their personal data as required for market and social research purposes, taking into account methodological aspects, and have given their verifiable and effective consent to this.

3.3 Databases maintained by clients

The clients of market and social research are themselves responsible for ensuring that their databases are operated in accordance with legal requirements. The research institution must bring to the client's attention any legal problems, particularly in terms of the data protection laws, if it becomes aware of these while handling the databases. These problems and the corresponding notification about them must be documented by the research institution.

3.4. Databases maintained by other institutions

If personal databases maintained by other institutions are used for market and social research, these are usually qualified collections of addresses belonging to commercial suppliers of addresses, which are important when drawing samples for studies involving special target groups. The conditions that have to be met in order for the use of the data stored in such databases to be permissible are listed in detail in the "Guideline on the Handling of Addresses in Market and Social Research".

4 Ways of using databases

4.1 Five basic forms of use

Five basic ways of using databases can be distinguished in market and social research:

1. drawing samples from databases (4.2),
2. mathematical statistical analysis of databases (4.3),
3. merging databases (4.4),
4. adding research results to databases (4.5),
5. using databases to augment research results (4.6).

4.2 Drawing samples from databases

The legal provisions that are relevant to drawing samples in general, and therefore also when drawing them from databases, and to the necessary transmission of addresses in this context, are described in the "Guideline on the Handling of Addresses in Market and Social Research".

4.3 Mathematical statistical analysis of databases

When mathematical statistical analyses are conducted on data that is already stored in databases, the databases or samples drawn from them are examined using scientific methods to find possible hitherto unnoticed patterns and relationships between the characteristics recorded therein. In the process, identification numbers may be calculated and assigned to the individual cases in the database as statistical expected values. This is done using mathematical statistical classification or assignment procedures.

The mathematical statistical analysis of databases for the purposes of market and social research is only permitted if

the personal data is processed in compliance with the requirement of anonymity.

4.4 Merging databases

When databases are merged, the characteristics stored in one (receiving) database are augmented on a case-by-case basis by additional characteristics contained in the other (donating) database by means of mathematical statistical classification or assignment procedures. Precondition for this is that the two databases must contain a number of shared characteristics, so that the assignment can be carried out based on similar combinations of characteristics.

Merging databases for the purposes of market and social research is permissible as long as no personal data is processed in doing so.

4.5 Adding research results to databases; notes on consent

4.5.1 General

When research results are added to databases, the characteristics already stored in the database are augmented on a case-by-case basis by new characteristics (e.g. identification numbers) as statistical expected values. The underlying data behind the research results may have been collected either among persons included in the database or among persons not included in it.

Research results can be added to databases in different ways:

4.5.1.1 Transmitting to the client only the rules for adding results

In this method of adding research results to databases, the research institution provides the client with the mathematical rules that can be used to calculate the identification numbers and assign them on a case-by-case basis as statistical expected values.

This method of adding results is allowed under the following conditions:

- a) no results of individual respondents must be directly assigned by the research institution
- b) the client must perform the calculations and the addition of the data on his or her own.

The client is responsible for determining whether the addition of the data is legally permissible. In particular, the client must check whether the specific case involves automated individual decision-making or profiling (Art. 22 EU-GDPR) and whether the addition of data is only permissible with the consent of the data subjects.

4.5.1.2 Addition of identification numbers to client data bases by the research institution

In this method of adding research results, the client sends the database, to which the research results are to be added, to the research institution. In contrast to 4.5.1.1. "Transmitting to the client only the rules for adding results", the research institution itself carries out the calculation and the case-by-case assignment of the identification numbers, and then sends the augmented database back to the client. This approach is permissible insofar as the research institution is

acting as the processor (Art. 28 EU GDPR), as is usually true in such cases. The client must check whether the addition of the data is legally permissible. In particular, the client must check whether the specific case involves automated individual decision-making or profiling (Art. 22 EU-GDPR) and whether the addition of data is only permissible with the consent of the data subjects.

4.5.1.3 Addition of data in a personalised form

The addition of data collected by research institutions in market and social research to the databases of clients or other parties in a personalised form is not permissible.

4.6 Using databases to augment research results

The data collected in the course of an survey may be augmented with data that is 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 EU-GDPR).

It should be noted 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 shared) or later (with the research agency adjusting 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 data may lawfully be processed.

5 Requirement of consent in the case of automated individual decision-making, including profiling, according to Art. 22 EU-GDPR

Under the professional rules and the Code of Conduct of German market and social research, it is prohibited without exception for research institutions in market and social research to decide upon the creation, execution or termination of a contractual relationship according to Article 22 EU-GDPR on the basis of probabilities.

Research results – especially identification numbers that are calculated and assigned as statistical expected values on a case-by-case basis – may be used by clients to decide whether to create, execute or terminate a contractual relationship in accordance with Art. 22 EU-GDPR on the basis of probabilities.

To the extent that the client him or herself carries out profiling, the research institutions may have an obligation to provide information to the client regarding the calculation of the identification numbers if the client is obliged to provide information to the data subject pursuant to Articles 13(2) and 15(1)(h) EU-GDPR as the controller. Nevertheless, the client

is solely responsible for checking in advance whether profiling is legally permissible.

It is expressly pointed out that the client must check whether Art. 22 EU-GDPR applies, in which case additional legal requirements must be met (including the requirement for consent, duty to provide information).

6 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 of this guideline cannot guarantee indemnity. If the issues are weighed up at a later time or by other authorities, it cannot be ruled out that different standards may result regarding the permissibility of the practices described.

First version May 2005, last revision January 2021