

Guideline on Recordings and Observations 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

Observations and recordings are carried out exclusively for the purpose of scientific evaluation and analysis. Recordings conducted during telephone surveys for quality control purposes are governed by the Telephone Guideline.

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.

2 Consent

Since audio/video recordings involve the storage of original sound and/or image data, it is necessary to obtain the consent of the participants in the discussion or the respondents in the interview (**referred to in the following as Data Subjects**) to the storage of such data – over and beyond their willingness to take part – before the recording can be made. The consent form must explicitly include details of the recipients to whom original sound and/or image data from the audio/video recordings will be transmitted.

This consent is only valid in connection with the declarations that must be made in this context towards the Data Subjects, in particular the assurance that research findings will only be presented in an anonymised form and that data will not be transmitted to third parties in such a way as to allow individuals to be identified.

A sample “Consent to Video/Audio Recordings and Observations” form is attached as an appendix to this guideline.

3 Requirement of anonymity

In order to protect the anonymity of the participants in a group discussion during the group discussion itself (and hence also while it is being recorded), the data subjects must not be addressed by their respective last names. The Data Subjects must be told at the beginning of the group discussion that they must not introduce themselves by their respective last names. Likewise, the Data Subjects should not introduce themselves and address each other by their first names, unless this is necessary for methodological reasons.

The rules laid down in the “Guideline on the Handling of Addresses in Market and Social Research” apply when handling the addresses of participants in group discussions and qualitative interviews.

4 Participation by the client

4.1 Clients who are not market research agencies (hereinafter referred to as End Client(s))

If the End Client commissioning a group discussion wishes to get an impression of a discussion or an individual interview for himself/herself – beyond the report submitted by the agency conducting the research – this request may only be granted provided the following conditions are met:

1. Representatives of the End Client **observe the event either on site, or via an audio or video conference or via a stream**. This procedure is permissible if the Data Subjects have been informed accordingly in advance and have given their consent, and if the persons observing the event have signed the **“Declaration of Commitment by End Clients on Observations and Recordings for the Purposes of Market and Social Research”** and the **“Personal Undertaking to Comply with the Data Protection Requirements of the General Data Protection Regulation”** attached to this guideline, and have sent them to the agency/studio beforehand.

In addition, any observations must take place in closed rooms to which only those persons have access who have signed the aforementioned written undertakings and have submitted them to the agency/studio beforehand.

2. A representative of the End Client **participates in the group discussion** after he/she has been **introduced to all Data Subjects in his/her capacity as an End Client**, and he or

she as well as any observers have signed the “Declaration of Commitment by End Clients on Observations and Recordings for the Purposes of Market and Social Research” and the “**Personal Declaration of Commitment to Comply with the Data Protection Requirements of the General Data Protection Regulation**” attached to this guideline, and have sent them to the agency/studio beforehand. There are no legal reasons against adopting this procedure, however – depending on the topic – methodological reasons may exist.

3. The End Client **participates in the group discussion but does not reveal him or herself as such**. This procedure may only be adopted if the participation of the End Client is necessary in order to achieve the research goal and if compelling methodological reasons exist that preclude his or her capacity as a End Client from being made known during the group discussion. In addition, it is necessary to examine on a case-by-case basis whether the requirements of a legal basis, such as Art. 6(1)(f) GDPR, are met. Furthermore, this End Client representative and any observers must have signed the “**Declaration of Commitment by End Clients on Observations and Recordings for the Purposes of Market and Social Research**” and the “**Personal Declaration of Commitment to Comply with the Data Protection Requirements of the General Data Protection Regulation**” attached to this guideline, and have sent them to the agency/studio beforehand.

4. The End Client **receives the audio and/or video recordings for research purposes**. In this case, it is necessary that

- the End Client has signed the “**Declaration of Commitment by End Clients on Observations and Recordings for the Purposes of Market and Social Research**” and the “**Personal Declaration of Commitment to Comply with the Data Protection Requirements of the General Data Protection Regulation**” attached to this guideline as samples and sent them to the agency/studio before receiving the recording; and
- all Data Subjects have been informed in advance, with reference to these written undertakings, and have given their consent. A sample “**Consent to Video/Audio Recordings and Observations**” form is attached to this policy.

In particular, the rules for End Clients set out in the “**Declaration of Commitment by End Clients on Observations and Recordings for the Purposes of Market and Social Research**” must be observed, in particular specifying that recordings must be deleted no later than 3 months after receipt.

5. **All** the different options listed above require that the data subject(s) is/are **not known to** the End Client. Should this be found not to be the case, either the data subject(s) or the End Client must be excluded from the observation. If the End Client is excluded, the End Client must not receive any recordings either.

4.2 Market research agencies as clients

The above restrictions do not apply when the relationship in question is an internal one between market research agencies. See the sample texts “**Declaration of Commitment for Research Agencies Commissioning Observations and Recordings for the Purposes of Market and Social Research**”

and the “**Personal Declaration of Commitment to Comply with the Data Protection Requirements of the General Data Protection Regulation**” in the appendix for the duties of the market research agency.

5 Observations of behaviour in special cases

Observations of behaviour **about which the Data Subjects cannot be told in advance for methodological reasons** (e.g. studying their reading behaviour while browsing through a magazine) must not take place in a situation where the observed person is completely alone in a room and may thus assume himself/herself **to be unobserved**.

Instead of asking the person’s consent beforehand, he/she shall be informed afterwards and asked afterwards to consent to the recordings or results of the observation obtained by other means being used for the purpose of the study. Providing general information before the observation is made (e.g. asking the individual to come to a studio and take part in a test there) is not a substitute for requesting the consent to using the observation after the event.

6 Special features of in-home projects and on the premises of End Clients

In these cases, the following rules apply in addition to those listed above:

1. The interviewer and the data subject must always give their consent to the participation of the agency / End Client commissioning the research and other participating persons at the time the Data Subjects are recruited.
2. Special protective measures must be in place to enforce anonymity, in particular
 - the documented consent of the interviewers must specifically name the client commissioning the research and/or the End Client receiving the research findings,
 - the data subject must be informed in the same way as the interviewers, in sufficient time before the study; the data subject must have given his or her documented consent,
 - the participating persons must sign the “**Personal Declaration of Commitment to Comply with the Data Protection Requirements under the GDPR**” attached as an appendix to this guideline and send it to the agency conducting the research beforehand,
 - the agency/End Client commissioning the research must have signed the “**Declaration of Commitment for Research Agencies Commissioning Observations and Recordings for the Purposes of Market and Social Research**” and the “**Personal Declaration of Commitment to Comply with the Data Protection Requirements of the General Data Protection Regulation**” attached as an appendix to this guideline and have transmitted them to the agency conducting the research before the study is conducted.
 - all concerns with regard to the protection of minors must be examined and taken into account with special care before the study commences,
 - the Data Subjects must be informed before the study is carried out that they can terminate the interview at any time,
 - the addresses of the Data Subjects must not be disclosed to the client,
 - audio, video, photo and streaming recordings may only be made by the agency conducting the research or by its data processors.

- In addition, it is only permissible to conduct in-home observations if the following conditions are met:
 - o The Data Subjects must be informed before the study is carried out that they can ask the interviewers present as well as other participants to leave their private home immediately at any time,
 - o the addresses of the persons interviewed must not be disclosed to the client even if travelling to the location together and conducting the in-home interview together,
 - o before carrying out the study, the agency conducting the research must ensure that all identifying features (in particular name plates on doorbells or letter boxes, family photos, etc.) are removed or covered up,
 - o the presence of the client during in-home observations is only permissible if there are compelling methodological reasons.

Allowing the End Client to participate in in-home projects as well as conducting the project on the End Client's premises may distort the research findings.

7 Final provisions and disclaimer

This guideline forms **part of the Code of Professional Conduct** that governs 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 recordings and observations of group discussions and qualitative interviews are carried out in Germany or from Germany. It therefore also applies when they are carried out from abroad in order to conduct scientific research in Germany.

The principles and procedures described in this guideline represent, 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. However, the issuers cannot guarantee indemnity. If the issues are weighed up at a later time or by other authorities, it cannot be ruled out that different or stricter standards may result regarding the permissibility and use of recordings and observations of group discussions and qualitative interviews.

First version June 1995, last revision 2020.

**Declaration of Commitment by End Clients on Observations and Recordings for the Purposes of
Market and Social Research**

The End Client identified below will receive the following from the agency conducting the research for the study _____
(name of study/method) for **research purposes** (please check):

- audio recordings
- video recordings
- the opportunity to observe via live stream/audio conference/video conference
- the opportunity to observe in an observation room
- the opportunity to observe on the Data Subject's premises
- the opportunity to observe on the End Client's premises
- other opportunities, namely _____

For all the features checked above, the subjects must be **informed** and **have given their prior consent**.

This consent is documented by the ... (agency, studio or recruiter).

The End Client hereby commits her-/himself as follows:

1. Without exception, recordings and observations will only be carried out in compliance with the "Guideline on Recordings and Observations in Market and Social Research".
2. Recordings and observations will only be made for research purposes and will be used only for the purpose of the research objective.
3. No attempt will be made to de-anonymise the data, and any such attempt will be prevented. No independent sound recordings, photos or film recordings will be made and no notes will be taken that are or can be related to individual persons.
4. Permission to observe and use recordings is restricted to such persons who have signed the "Personal Declaration of Commitment to Comply with the Data Protection Requirements of the General Data Protection Regulation (GDPR)" attached as an appendix and have sent this to the agency/studio conducting the research beforehand.
5. The "Consent to Video/Audio Recordings and Observations", which Data Subjects must sign prior to the recording, states who will receive the recordings.
6. Observations and use of recordings are only permissible in closed rooms to which only those persons have access who have signed the aforementioned "Personal Declaration of Commitment to Comply with the Data Protection Requirements of the General Data Protection Regulation" and who have submitted this to the agency/studio beforehand.
7. Recordings must be deleted no later than three months after receipt.

This Declaration of Commitment is part of the "Guideline on Recordings and Observations in Market and Social Research" and thus part of the Code of Professional Conduct for German Market and Social Research.

End Client (name, address):

Agency conducting the research:
(Agency Stamp)

Authorised to issue this declaration:

(Name)

(Place)

(Position in the company)

(Date)

**Declaration of Commitment for Research Agencies Commissioning Observations and Recordings for the Purposes of
Market and Social Research**

The agency commissioning the research identified below will receive the following from the agency conducting the research for the study _____ (name of study/method) for **research purposes** (please check):

- audio recordings
- video recordings
- the opportunity to observe via live stream/audio conference/video conference
- the opportunity to observe in an observation room
- the opportunity to observe on the subject's premises
- the opportunity to observe on the End Client's premises
- other, namely _____

For all the features checked above, the subjects must be **informed and have given their prior consent**.

This consent is documented by the ... (agency, studio or recruiter).

The agency commissioning the research hereby commits her-/himself as follows.

1. Insofar as End Clients will observe or receive recordings, the "Declaration of Commitment by End Clients on Observations and Recordings for the Purposes of Market and Social Research" must be signed beforehand
2. Without exception, recordings and observations will only be carried out in compliance with the "Guideline on Recordings and Observations in Market and Social Research".3. Recordings and observations will only be made for research purposes and will be used only for the purpose of the research objective.
4. No attempt will be made to de-anonymise the data, and any such attempt will be prevented. No independent sound recordings, photos or film recordings will be made and no notes will be taken that are or can be related to individual persons.
5. Permission to observe and use recordings is restricted to such persons who have signed the "Personal Declaration of Commitment to Comply with the Data Protection Requirements of the General Data Protection Regulation (GDPR)" attached as an appendix and have sent this to agency conducting the research beforehand.
6. The "Consent to Video/Audio Recordings and Observations", which Data Subjects must sign prior to the recording, states who will receive the recordings.
7. Observations and use of recordings are only permissible in closed rooms to which only those persons have access who have signed the aforementioned "Personal Declaration of Commitment to Comply with the Data Protection Requirements of the General Data Protection Regulation" and who have submitted this to the agency/studio beforehand.
8. Recordings must be deleted no later than ... months (please specify, but no longer than 12 months) after receipt.

This written declaration is part of the "Guideline on Recordings and Observations in Market and Social Research" and thus part of the Code of Professional Conduct for German Market and Social Research.

Agency commissioning the research (Name, Address):

Agency conducting the research:

(Agency Stamp)

Authorised to issue this declaration:

(Name)

(Place)

(Position in the company)

(Date)

**Personal Declaration of Commitment to Comply with the Data Protection Requirements according to the
General Data Protection Regulation (GDPR)**

I understand that according to the "Guideline on Recordings and Observations in Market and Social Research" 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.

This Declaration of Commitment must be signed and presented to the agency conducting the research in order for recordings and observations to be permissible, e.g. in the case of group discussions and qualitative interviews in market and social research. The persons involved at the agency or End Client commissioning the research must therefore sign this personal Declaration of Commitment to comply with the data protection requirements in accordance with the General Data Protection Regulation (GDPR) and send it to the agency conducting the research before the study.

I will participate as an observer in the study on the topic of ... (Client: ..., Contractor: ...) in ... (Place/Address) on ... [or: "I will receive recordings for the study on the topic of ... (Client: ..., Contractor: ...) in ... (Place/Address)"] No attempt will be made to de-anonymise the data, and any such attempt will be prevented. I am aware that I am not permitted to take photos or make sound or video recordings or to take notes that are or can be related to individual persons.

I have been informed that it is prohibited to process personal data without authorisation. Personal data may therefore only be processed if permitted by consent or a legal regulation, or if processing such data is legally mandatory (Art. 6 GDPR). The principles of the GDPR for processing personal data are set out in Art. 5(1) GDPR and essentially include the following obligations:

Personal data shall be:

- processed lawfully and in a transparent manner in relation to the data subject;
- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ("data minimisation");
- accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
- kept in a form which permits identification of Data Subjects for no longer than is necessary for the purposes for which the personal data are processed;
- processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ("integrity and confidentiality").

I understand that if data is processed that is subject to the secrecy of social data, it must be treated confidentially by me to the same extent as it was treated confidentially by its original transmitter.

I understand that any violation of this obligation may be punishable by a fine and/or imprisonment and that a violation may at the same time constitute a breach of contractual obligations. Culpable violations of this obligation may also result in claims for damages (under civil law). Any separate Declaration of Commitment to maintain confidentiality shall not be affected by this declaration.

This Declaration of Commitment shall continue to apply even after I have ceased to work for my current employer/client. With my signature, I confirm this Declaration of Commitment. I have received a copy of this document.

Name, First name:

Place / Date: **Signature:**

Consent to Video/Audio Recordings and Observations

Given by Ms / Mr ... (Data Subject)

to

... (hereinafter the Agency)

and

... (hereinafter the End Client)

Alternatively – if justifiable and necessary for methodological reasons: For methodological reasons, in order to prevent any bias, the name of the End Client will not be disclosed to you until after the study has been completed.

We (the Agency) thank you for your participation in this study on the subject of... Please read the following information carefully and declare your consent by signing below.

Video and/or audio recordings are to be made on (date) at (address of the premises used for the study) by ... (agency, contracted service provider, streaming provider, etc.). These recordings will be used by the End Client [and, if applicable,]¹ exclusively for research purposes within the scope of this study. Using them for other purposes (e.g. advertising purposes) is expressly not permitted.

The End Client will not be told your last name or your address.

If you are informed accordingly at the beginning of the observation, the End Client² will be able to observe the discussion through the one-way mirror or as a live stream.

The video and/or audio recordings will only be passed on to the End Client [and, if applicable, ...]² for inspection after he or she has signed a so-called "Declaration of Commitment by End Clients/Agencies Commissioning Research". In this declaration, the End Client commits her-/himself to the following:

1. Without exception, recordings and observations will only be carried out in compliance with the "Guideline on Recordings and Observations in Market and Social Research".² Recordings and observations will only be made for research purposes and will be used only for this purpose of the research objective.
3. No attempt will be made to de-anonymise the data, and any such attempt will be prevented. No independent sound recordings, photos or film recordings will be made and no notes will be taken that are or can be related to individual persons.
4. Permission to observe and use recordings is restricted to such persons that have signed the "Personal Declaration of Commitment to Comply with the Data Protection Requirements of the General Data Protection Regulation (GDPR)" attached as an appendix and have sent this to agency/studio conducting the research beforehand.
5. Observations and use of recordings are only permissible in closed rooms to which only those persons have access who have signed the aforementioned "Personal Declaration of Commitment to Comply with the Data Protection Requirements of the General Data Protection Regulation" and who have sent this to the agency/studio beforehand.
6. This consent form contains details of who will receive the recordings.
7. Recordings must be deleted no later than three months after receipt.

The End Client [and, if applicable, ...]² will process your data within the European Union or the European Economic Area.

The Agency is responsible for processing the video and audio recordings in accordance with Art. 4 (7) EU General Data Protection Regulation (GDPR).

The data will be deleted at the Agency no later than ... months (please specify, but no longer than 12 months) after the end of the study.

You have the following rights with respect to the Agency regarding the personal data pertaining to you:

Right of access (Art. 15 GDPR),
Right to rectification (Art. 16 GDPR),
Right to erasure, "right to be forgotten" (Art. 17 GDPR),
Right to restriction of processing (Art. 18 GDPR),
Right to data portability (Art. 20 GDPR),
Right to object to processing (Art. 21 GDPR).

Furthermore, you have the right to lodge a complaint with the data-privacy authorities concerning the processing of your personal data by us.

¹ and, if applicable, other recipients of personal data: Please enter details!

You may also contact the data protection officer of the controller: ... (insert contact details of the Agency's data protection officer).

I hereby confirm that I have read this document and have had the opportunity to ask questions.

By signing below, I give my consent (Art. 6(1)(a) EU General Data Protection Regulation – GDPR) for the Agency and its processors (according to Art. 28 GDPR, such as technical service providers, videographers, translators, cloud providers or similar) to process the video and audio files for the purpose of this study and to share them with the End Client¹ for research purposes.

I am aware that I can revoke my consent at any time with effect for the future.

Such revocation can be made without giving reasons and will have no negative consequences for me.

If I have signed a confidentiality agreement, this will not be affected by the revocation and will continue to apply.

Date, Signature

Name in block letters