

GENERAL TERMS AND CONDITIONS OF MANDATE (GTCM) OF PRO BONO HEIDELBERG E.V.¹

Annex: Data Protection Notice

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I. Contact Details

1. The Person Responsible

The controller in terms of the EU General Data Protection Regulation (GDPR) and other national data protection laws of the member states as well as other data protection regulations is:

Pro Bono Heidelberg
– Studentische Rechtsberatung e.V.
c/o StuRa der Universität Heidelberg
Albert-Ueberle-Straße 3
69120 Heidelberg

The controller is represented by his executive board.

2. The Data Protection Officer

The data protection officer of Pro Bono Heidelberg e.V. is its first chairman. The data protection officer can be reached at

Pro Bono Heidelberg
– Studentische Rechtsberatung e.V.,
Datenschutzbeauftragter
c/o StuRa der Universität Heidelberg
Albert-Ueberle-Straße 3
69120 Heidelberg

e-mail: kontakt@probono-heidelberg.de

¹ “E.V.” is the abbreviation for registered association.

II. General Information on Data Processing and the Data Protection Notices

1. The Aim and Purpose of this Data Protection Notice

With this data protection notice, the legal service provider informs the client in a general way about the data processing by the legal service provider and in a special way about the data processing in the context of the processing of a mandate.

Furthermore, the legal service provider informs the client about his or her rights in relation to the processing of his or her data. The term "data processing" always refers to the processing of personal data.

2. Categories of Personal Data

The legal service provider processes the following categories of personal data:

a) Processing under a Mandate

The legal service provider processes the following data in the context of a mandate:

- the client's name, address and e-mail address, including telephone number if applicable (contact details)
- and the data that the client has sent to the legal service provider to answer his or her legal questions (electronically by e-mail and, where appropriate, by post) - i.e. essentially the description of the facts (case data)

Such data may also have been transmitted before the request for advice was made. Nevertheless, this data protection

notice refers exclusively to the processing of data in the context of a mandate.

b) Processing without a Mandate

If no consultancy mandate has yet been issued, the processing of data is governed by the data protection information provided by the legal service provider on its website.²

3. Processors of Personal Data

The legal service provider processes personal data in general by its members and in particular

- by a team of advisers and the member of the advisory board assigned to the client's case in accordance with § 7 subpara. 2 GTCM,
- by its executive board
- and by persons appointed by the executive board for special tasks (organisation team); these persons support the executive board in the management of the association.

4. Recipients or Categories of Recipients of Personal Data

If the legal service provider discloses data to other persons and companies within the scope of the client relationship, transfers it to them or otherwise grants them access to the data, this is done either on the basis of a legal authorisation (e.g. if transfer of the data to third parties in accordance with Art. 6 para. 1 subpara. 1 lit. b) GDPR is necessary to fulfil the contract) or if the data subjects have consented or if a legal obligation provides for this.

² These are available here (in German):

<http://probono-heidelberg.de/wp-content/uploads/2020/04/Datenschutzhinweise-Website.pdf>

5. Duration of Storage of Personal Data

The criterion for the storage period is the respective legal retention period. After expiry of this period, the corresponding data will be deleted, provided that they are no longer required for the achievement of the purpose, fulfilment of the contract or initiation of the contract.

6. Transfers to Non-EU or Non-EEA Countries

- a) If the legal service provider processes data in a third country (i.e. outside the European Union (EU) or the European Economic Area (EEA)) or if this is done in the context of the use of third party services or the disclosure or transfer of data to third parties, this will only take place if it is done either to fulfil its (pre-)contractual obligations or on the basis of the client's consent or on the basis of a legal obligation or on the basis of its legitimate interests.
- b) Subject to legal or contractual permissions, the legal service provider processes or allows the data to be processed in a third country only if the special requirements of Art. 44 et seq. GDPR are met. This means, for example, that the processing is carried out on the basis of special guarantees, such as the officially recognised determination of a level of data protection corresponding to that of the EU (e.g. for the USA through the "Privacy Shield") or in compliance with officially recognised special contractual obligations with the third party (so-called "standard contractual clauses") or only with the special consent of the client pursuant to Art. 49 para. 1 subpara. 1 lit. a) GDPR.

III. Data Processing in the Context of a Mandate

1. Description and Scope of Data Processing

- a) As long as a mandate is being processed, the legal service provider uses both the contact details and case data of the client. However, only an assigned team of advisors, the assigned member of the advisory board and the executive board and organisation team have access to the data.
- b) The processing is carried out, among other things, by storing the data in a cloud and transmitting them via e-mail and a messenger service. This storage and transmission takes place by transferring data to third parties whose registered office and processing location is in the European Union (EU) or the European Economic Area (EEA).

2. Legal Basis

According to Art. 6 para. 1 subpara. 1 letter b) GDPR, the legal basis for the data processing is the consultancy mandate, the fulfilment of which requires a fast and uncomplicated exchange of data within the association structures. If the client does not make the contact detail and case data available for (complete) consultation, the legal service provider's obligation to provide advice as set out in § 11 GTCM cannot be (completely) fulfilled.

IV. Data Processing after Conclusion of a Mandate

If a mandate is no longer processed, the data is used as follows:

1. Storage of Contact Details and Case Data with Real Names

a) Description and Scope of Data Processing

Only the executive board and the organisation team have access to the contact details and case data with real names. The data will only be used if this becomes necessary because of the underlying mandate (i.e. in particular to clarify and defend any claims that may be made against the legal service provider).

b) Storage Period

The contact details and case data with real names will be stored digitally for a period of ten years.

c) Legal Basis

The legal basis for the ten-year storage of contact details and case data with real names is Art. 6 para. 1 subpara. 1 letter f) GDPR, because the legal service provider has a legitimate interest in the storage until possible claims are statute-barred according to § 199 para. 3 sentence 1 no. 1 German Civil Code (BGB).

2. Anonymous Storage of Case Data

a) Description and Scope of Data Processing

The case data is stored digitally and anonymously. The data is stored on servers that are operated within the European Union (EU) or the European Economic Area (EEA) and are therefore subject to

the GDPR. Every member of the legal service provider has access to these servers. Thus, the members of the association have the possibility to obtain, if required, a sample for the solution of a specific legal or actual problem, and in this way to maintain and increase the quality of the advice provided by Pro Bono Heidelberg e.V.

b) Storage Period

The anonymised case data is stored permanently.

c) Legal Basis

The legal basis for the anonymised storage of case data is a legitimate interest of the legal service provider pursuant to Art. 6 para. 1 subpara. 1 letter f) DSGVO, because the legal service provider must be able to rely on anonymised expert opinions for quality assurance and enhancement (see IV. 2 letter a)).

d) Option of Removal: Right to Object

Pursuant to Art. 21 para. 1 sentence 1 GDPR, the client may object at any time to the type of processing of anonymised case data specified in letter a). If the legal service provider receives the objection, it deletes the anonymised case data, insofar as it can still be attributed to the client. An e-mail with the subject line "Objection to the processing of my anonymised case data", which must contain the name of the client, to the following address is sufficient for the objection:

kontakt@probono-heidelberg.de

3. Publication of the Anonymised Case Data in the Association's Internal Newsletter and on Social Media Platforms

a) Description and Scope of Data Processing

In individual cases, the legal service provider transmits the case data in completely anonymous form on social media platforms to the public and through an e-mail distribution list to its members. This is done in order to provide information on which cases the legal service provider has currently concluded (newsletter and social media publication). The purpose is to be able to present the current developments and activities in the association as widely as possible; among other things, this documents the vitality of the association's life.

b) Legal Basis

The legal basis for the publication of case data in the newsletter and on social media platforms is a consent of the client according to Art. 49 para. 1 subpara. 1 letter a) GDPR.

V. Rights of the Client

The client is entitled to the following rights in connection with the processing of his or her personal data:

1. Right of Access

a) The client has the right to obtain confirmation from the legal service provider as to whether or not personal data concerning him or her are being processed; if this is the case, the client has the right to be informed of such personal data and to receive the following information:

- aa) the processing purposes;
- bb) the categories of personal data processed;
- cc) the recipients or categories of recipients to whom the personal data have been or will be disclosed, in particular to recipients in third countries or international organisations;
- dd) if possible, the planned duration for which the personal data will be stored or, if this is not possible, the criteria for determining this duration;
- ee) the existence of a right of rectification or erasure of personal data relating to him or her or of a restriction on processing by the controller or a right to object to such processing;
- ff) the existence of a right of appeal to a supervisory authority;
- gg) if the personal data are not collected from the data subject, all available information on the origin of the data;
- hh) the existence of automated decision-making, including profiling in accordance with Art. 22 para. 1 and para. 4 GDPR and - at least in these cases - meaningful information on the logic involved and the scope and intended consequences of such processing for the data subject.
- ii) If personal data are transferred to a third country or to an international organisation, the data subject has the right to be informed of the appropriate safeguards pursuant to Art. 46 GDPR in connection with the transfer.

3. Right to Rectification

The client has the right to request the legal service provider to correct incorrect personal data concerning him or her without delay. Taking into account the purposes of processing, the client has the right to request the completion of incomplete personal data, including by means of a supplementary declaration.

2. Right to Erasure

a) *Conditions of the Right to Erasure*

The client has the right to request the legal service provider to delete personal data concerning him or her without delay, and the legal service provider is obliged to delete personal data without delay if one of the following reasons applies:

- aa) The personal data are no longer necessary for the purposes for which they were collected or otherwise processed.
- bb) The client withdraws his or her consent on which the processing was based pursuant to Art. 6 para. 1 sub-para. 1 letter a) or Art. 9 para. 2 letter a) GDPR, and there is no other legal basis for the processing.
- cc) The client lodges an objection to the processing pursuant to Art. 21 para. 1 sentence 1 GDPR and there are no overriding legitimate reasons for the processing, or the client lodges an objection to the processing pursuant to Art. 21 para. 2 DSGVO.

dd) The personal data were processed unlawfully.

ee) The deletion of personal data is necessary to comply with a legal obligation under Union or national law to which the legal service provider is subject.

ff) The personal data was collected in relation to information society services offered in accordance with Art. 8 para. 1 GDPR.

b) *Scope of the Right to Erasure upon Publication of the Personal Data*

If the legal service provider has made the personal data public and is obliged to delete them in accordance with letter a), it shall take reasonable measures, including technical measures, taking into account available technology and implementation costs, to inform data controllers who process the personal data that the client has requested the erasure of all links to these personal data or copies or replications of these personal data.

c) *Exclusion of the Right to Erasure*

Even if the conditions in letters a) and b) are fulfilled, these regulations do not apply insofar as the processing is necessary

aa) to exercise the right to freedom of expression and information;

bb) to comply with a legal obligation requiring processing under Union or national law to which the legal service provider is subject or to perform a task carried out in the public interest or in the exercise of official authority vested in the legal service provider;

cc) for reasons of public interest in the field of public health pursuant to Art. 9 para. 2 letter h) and i) and Art. 9 para. 3 GDPR;

dd) for archival, scientific or historical research purposes in the public interest or for statistical purposes pursuant to Art. 89 para. 1 GDPR, insofar as the right to erasure referred to in letter a) is likely to render impossible or seriously prejudice the attainment of the purposes of such processing, or

ee) to assert, exercise or defend legal claims.

3. Right to Restriction of processing

a) The client shall have the right to request the legal service provider to restrict the processing if one of the following conditions is met:

aa) the accuracy of the personal data is contested by the client, for a period allowing the legal service provider to verify the accuracy of the personal data

bb) the processing is unlawful and the client refuses the erasure of the personal data and requests instead the restriction of the use of the personal data

cc) the legal service provider no longer needs the personal data for the purposes of the processing, but the client needs them in order to assert, exercise or defend legal claims or

dd) the client has lodged an objection to the processing pursuant to Art. 21 para. 1 sentence 1 GDPR as long as it is not yet clear whether the legitimate

reasons of the legal service provider within the meaning of Art. 21 para. 1 sentence 2 Hs. 2 GDPR outweigh those of the client.

b) If the processing has been restricted in accordance with letter a), these personal data - apart from their storage - may only be processed with the consent of the client or for the purpose of asserting, exercising or defending legal claims or protecting the rights of another natural or legal person or for reasons of an important public interest of the Union or a Member State.

4. Right to Data Portability

a) The client has the right to receive the personal data concerning him or her, which he or she has provided to the legal service provider, in a structured, common and machine-readable format, and has the right to transfer this data to another responsible person without interference from the legal service provider, provided that

aa) the processing is based on a consent pursuant to Art. 6 para. 1 subpara. 1 letter a) or Art. 9 para. 2 letter a) GDPR or on a contract pursuant to Art. 6 para. 1 subpara. 1 letter b) GDPR and

bb) the processing is carried out using automated procedures.

b) When exercising his or her right to data portability under letter a), the client has the right to obtain that the personal data be directly transferred from one controller to another controller, as far as this is technically feasible.

- c) The right under letter a) shall not adversely affect the rights and freedoms of other persons.
- d) The right under lit. b) shall not apply to processing necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

5. Right to Object

- a) The client has the right to object at any time, for reasons arising from his or her particular situation, to the processing of personal data concerning them on the basis of Art. 6 para. 1 subpara. 1 letter e) or f) GDPR; this also applies to profiling based on these provisions.
- b) In the event of an objection, the legal service provider shall no longer process the personal data unless it can demonstrate compelling legitimate reasons for processing which outweigh the interests, rights and freedoms of the data subject, or the processing is necessary for the establishment, exercise or defence of legal claims.
- c) In the context of the use of Information Society services, notwithstanding Directive 2002/58/EC, the client may exercise his or her right to object by means of automated procedures using technical specifications.
- d) The objection may be sent to
kontakt@probono-heidelberg.de
and must specify the processing against which objection is being made.

6. Right to Withdraw

The client has the right to withdraw his or her consent to data processing at any time. The withdrawal of the consent does not affect the lawfulness of the processing carried out on the basis of the consent until the withdrawal.

7. Right to Complain to a Supervisory Authority

Without prejudice to any other administrative or judicial remedy, the client shall have the right to lodge a complaint with a supervisory authority, in particular in the Member State in which he or she is resident, at his or her place of work or at the place where the alleged infringement occurred, if the client considers that the processing of personal data relating to him or her is in breach of this Regulation. The client has the right to revoke his or her data protection consent at any time. Revocation of the consent shall not affect the lawfulness of the processing carried out on the basis of the consent until revocation.