



AALBORG UNIVERSITET

Guide to sharing personal data with third countries



Introduction

When a research project includes the processing of personal data and when such personal data must be shared with countries outside the EU/EEA (so-called third countries) or to international organisations, you must ensure that AAU acts in accordance with the GDPR during such sharing. This means that before sharing personal data to third countries, you must:

- check whether the third country or international organisation ensures an adequate level of data protection,
- ensure that the data subjects are informed of the sharing,
- ensure that the recipients based in a third country or international organisation which do not ensure an adequate level of protection sign EU's standard contractual clauses, and
- ensure that you conclude a data processing agreement or acquire that the Danish Data Protection Agency authorise the sharing.

What is a sharing?

It is considered a sharing when you are the data controller and you *share*¹ personal data from your research project to another data controller, or when you *entrust* the processing of personal data to a data processor from a third country.

If the recipient is only able to see and not process the personal data, it is still considered a sharing.

Third countries and international organisations

- What are third countries?

Third countries are countries outside the EU or EEA (Iceland, Liechtenstein and Norway).

Greenland and the Faroe Islands are considered third countries.

- What are international organisations?

International organisations comprise organisations such as the Red Cross, WHO, the UN, OECD etc. who reside in a third country.

Sharing to secure third countries

Sharing to secure third countries and organisations:

The European Commission determines whether a third country has an adequate level of data protection.

As of May 2018, the European Commission has determined that the level of protection is adequate in the following countries:

- a) Andorra, Argentina, the Faroe Islands, Guernsey, Isle of Man, Israel, Jersey, New Zealand, Switzerland and Uruguay.
- b) Australia (limited to the sharing of air passenger data)
Canada (limited to recipients subject to the Canadian Personal Information Protection and Electronic Documents Act (PIPED ACT))
The United States (limited to the sharing of air passenger data and sharing with organisations/companies that have joined the EU-US Privacy Shield).

The European Commission continuously updates this list; thus, you should always contact Grants & Contracts in order to ensure that the above list is still in force.

Entering into agreements or acquiring authorisation

If you wish to entrust the processing of personal data on a data processor in a secure third country, you must sign a data processing agreement. Grants & Contracts has prepared a standard data processing agreement that you may use.

If you need to share personal data to collaboration partners in secure third countries, this requires the authorisation of the Danish Data Protection Agency.

¹Please note that sharing to third countries requires the authorisation of the Danish Data Protection Agency.



The obligation to provide information to data subjects

Please remember, if you have not already informed the data subjects that you intend to share their personal data to a third country, you must do so. You can comply with the obligation to provide information by sending an email to the data subjects to inform them to which third country you will share their personal data and on what grounds. Remember that you must be able to document that you have complied with the obligation of providing information. Please note, if you asked the data subjects to fill in a form when you collected their data, you may have already complied with this obligation.

Sharing with third countries that are not considered secure

Sharing with third countries and organisations that are not considered secure:

If you need to share personal data to a third country or an international organisation from a third country which is not on the list of secure third countries, you may do so only if a valid basis for the sharing exists.

EU's standard contractual clauses may constitute a valid basis for the sharing:

- a) An EU set of standard contractual clauses² for the sharing of personal data to third countries from a data controller (AAU) to another data controller (sharing).
- b) An EU set of standard contractual clauses³ for the sharing of personal data from a data controller (AAU) to processors established in third countries (data processing).
- c) You may enter into an ad hoc agreement when either a) or b) is used and you amend or deviate from the standard clauses. When entering such an agreement, this must be authorised by the Danish Data Protection Agency; remember to expect some processing time.

EU's standard contractual clauses are designed to be used by companies and may, thus, be difficult to apply to research projects; however, in most cases, these constitute the only valid basis for international sharing.

Please note that even though the data subjects are willing to give their consent to the sharing to a third country, a public authority such as AAU must not use consent as a basis for international sharing.

Entering into agreements or acquiring authorisation

If you wish to entrust the processing of personal data on a data processor in a third country not considered secure, you must sign both a data processing agreement and EU's standard contractual clauses.

If you need to share personal data to collaboration partners in third countries not considered secure, this requires the authorisation of the Danish Data Protection Agency.

Grants & Contracts can help you use the standard contractual clauses and provide guidance on how to apply for the authorisation of the Danish Data Protection Agency to share personal data to third countries.

The obligation to provide information to data subjects

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² No. 2001/497/EC and the amending decision 2004/915/EC

³ Nr. 2010/87/EU