

# Guidelines for the use of observation data from *ornitho.de* (casual observations)

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## **§ 1 Scope of application**

- (1) These guidelines govern the procedures for the entry and subsequent use of unsystematically collected observation data (casual observations) from *ornitho.de* according to section 4.2 of the “*Ornitho.de* terms and conditions of use”.
- (2) These guidelines apply to all applications to use observation data from *ornitho.de* with the exception of the sovereign territory of Luxemburg. They might be more precisely defined by individual federal states (*Bundesländer*), provided that the *ornitho.de* steering committee adopts the corresponding rules of a federal state and they have been accepted by the board of the legal body of *ornitho.de*.
- (3) According to the of the “*Ornitho.de* terms and conditions of use” (section 4.2), an application for the use of observation data must be made, provided that the intended use does not fall under a license to use for the legal body or specialized partners, which license has been stipulated between the observer inputting the data and the Dachverband Deutscher Avifaunisten e.V. (DDA) as the legal body of *ornitho.de*, as well as the partners of *ornitho.de* recognized in the “*Ornitho.de* terms and conditions of use”.
- (4) A model agreement for the use of observation data from *ornitho.de* can be found in Appendix 1 as a part of these guidelines.

## **§ 2 Definitions**

- (1) The basis of these directives is the “*Ornitho.de* terms and conditions of use”. The terms defined there, the principles, and goals, or respectively the agreements for the use of observation data, are an integral part of these guidelines.
- (2) Casual observations are, according to the definition in the “*Ornitho.de* terms and conditions of use” “all bird observations that are not collected within the framework of systematic surveys and which are entered into the special data entry forms designated for that purpose.” They include raw data as well as data that have been analyzed according to the definition in the “*Ornitho.de* terms and conditions of use”.
- (3) The term “commercial use” in the “*Ornitho.de* terms and conditions of use” includes work-related use and is defined in UStG § 2 para. 1 sentence 3.
- (4) Only a limited time period for the right to use the observation data provided will be granted.

## **§ 3 Application for the use of observation data from *ornitho.de***

- (1) The goal of *ornitho.de* is:
  1. that the collected observation data become available for analyses that serve the augmentation of avifaunal and scientific knowledge as well as the protection of nature and the environment,
  2. to enthuse people for avifaunal study, and
  3. to support education on nature and the environment.

Any use of observation data from *ornitho.de* for this purpose is expressly welcome.

- (2) An application for the use of data can be made by any natural person or legal entity.
- (3) Every application must be submitted in writing to the chair of the responsible steering committee. The responsible groups are:
  - a) the steering committee for the federal state (*Bundesland*) if an application is being made for the use of the observation data from one federal states or parts thereof.
  - b) the national steering committee if the application is being made for data from more than one federal state or if there exists no steering committee for the federal state in question.
- (4) The goal of the use for which the application is made must be an analysis of the data within the framework of § 3 (1) or the "*Ornitho.de* terms and conditions of use". Hence, a clear goal of data analysis as well as a final product must be specified, and in the description of the project, it must be made clear how and by when they should be accomplished.
- (5) A separate application has to be made for each data analysis project.
- (6) For initial applications, a brief, informative portrayal of the applicant must be included.
- (7) In the application, the responsible persons and organizations, as well as any clients or financing bodies must be explicitly named.
- (8) An application for repeated, periodic provision of observation data from *ornitho.de* can be made. The authorization can be limited to a time period.
- (9) The form "Application for the Use of Observation Data from *ornitho.de*" must be exclusively used for making an application.
- (10) The relevant version of the guidelines and forms are those that have been published as of the day the application is made to *ornitho.de*.

#### **§ 4 Decision on an application**

- (1) The responsible steering committee will usually make a decision on the application within 30 days.
- (2) Only application forms that have been completely filled out will be considered for a decision.
- (3) The steering committee will take particular care to ensure that the purpose of the application and the qualifications of the applicant correspond to the principles and goals of *ornitho.de*.
- (4) The steering committee can include the votes of other steering committees and/or local, specialized partners if it considers it necessary (e.g. because a considerable portion of the data originates from one region).
- (5) The rules of procedure of the responsible steering committee govern any further voting procedures.

#### **§ 5 Provision of the data**

- (1) The provision of the data will generally occur within 30 days of the decision of the responsible steering committee.
- (2) For conservation reasons, the responsible steering committee can stipulate that all or certain data will not be provided with a precise location.
- (3) The responsible steering committee decides how high the spatial resolution of the allocated data should be.

- (4) For applications for the provision of raw data for commercial use, only data from observers will be provided who have agreed thereto.
- (5) Raw data will be provided in *ornitho* standard format. A description of the current *ornitho* standard format is available on *ornitho.de*.

#### **§ 6 Costs for the Provision of the Data**

- (1) For the provision or evaluation of the observation data, costs may apply. They are determined by the responsible steering committee or the institution providing the data. The current policy on costs, in the case where the national steering committee is responsible, is published on *ornitho.de*.
- (2) For applications without a commercial background, a request for an exemption to costs can be made. The responsible steering committee decides on the application.

#### **§ 7 Amendments to the Guidelines for Use of the Observational Data from *ornitho.de***

- (1) These guidelines can be amended at any time by a decision of the national steering committee and the legal body of *ornitho.de*. New versions will be announced on *ornitho.de*.

# Appendix 1

## Model Agreement for the Use of Observational Data from *ornitho.de* (Casual Observations)

### § 1 Subject Matter of the Contract

(1) The subject matter of the contract is the provision of the data described below and its use by the recipient.

The data described in more detail below will be provided to

*XXXX*

(recipient)

pursuant to the application from

*XX.XX.XXXX*

on the

*XX.XX.XXXX*

with the number

*ornitho-DE-20XX-XXX*

by

*XXX, Dachverband Deutscher Avifaunisten (DDA) e.V., An den Speichern 6, 48157 Münster*

for use exclusively within the scope of the following projects:

*\*\*\* Title of the project (if applicable including the contracting authority and contract number) \*\*\**

Delivery of the data will take place through

*\*\*\* Description of the data format \*\*\**

with data as of

*\*\*\* Date \*\*\**

and will cover the following information:

*\*\*\* Brief description of the data (e.g. number of records, species, time period) \*\*\**

- (2) A description of the *ornitho* standard format has been published on [www.ornitho.de](http://www.ornitho.de) under the menu "About ornitho.de → Reference lists." If analyzed data is provided, a description of the data format will be provided with the delivery of the data.

## **§ 2 Terms of Use**

- (1) The recipient of the data commits him or herself to:
- a) using the data provided exclusively for the project described in § 1
  - b) ensuring that no unauthorized persons obtain access to the data and third parties neither use the data for their own use nor make it available to others,
  - c) clearly identifying all visible changes to the data provided as one's own changes,
  - d) implementing § 3 in all publications or other public presentations,
  - e) making the final product (or as an extract, if applicable) which is based on the data available to the responsible steering committee whose data provided the basis for the final product promptly following the conclusion of the project.
  - f) deleting the data provided (including interim steps in the data processing) following conclusion of the project ,
  - g) providing information about the state of the data analysis within a year following provision of the data, at the latest.
- (2) The contracting party is liable for all damages that the DDA and its specialized partners may incur due to the non-observance of the preceding terms of use. In the case of gross negligence or intentional violation of contractual duties, the right to use the data expires, effective immediately. In this case, the immediate return or deletion of the data provided can be demanded.

## **§ 3 Acknowledgments, Sources, and Citation Form**

- (1) The transmitted observational data are collected predominantly on a volunteer basis. This commitment has to be appreciated in the acknowledgments. The institutions listed under § 1 are likewise to be mentioned in the acknowledgments.
- (2) *Ornitho.de*, the contract number under § 1, and the data status must also be provided in the sources.
- (3) In case of a reference to individual data sets, the names of the observers must be provided. In the case of three observers or more, one can name the first observer and the others can be abbreviated with "et al."

## **§ 4 Warranty**

- (1) The DDA and the specialized partner of *ornitho.de* hold the observational data in trust that have been transferred to you and make every effort, by conducting several plausibility checks, to identify erroneous records and prevent them from being provided. Any errors or flaws that have been identified should be disclosed to the DDA.
- (2) A guarantee of the completeness of the data is not offered.
- (3) Liability for erroneous data sets is limited to premeditated acts, injuries, death, and impairments to health, as well as gross negligence.

## **§ 5 Legal Responsibilities**

- (1) Every use outside the strict limits of these terms of use is prohibited. This applies especially to photomechanical copies, microfilming, and permanent storage, processing, or transfer into electronic systems or media, even for extracts.
- (2) In cases of violation of the terms of use, the DDA and the specialized partners of *ornitho.de* reserve the right to take legal action.
- (3) Amendments to, supplementations of, or collateral agreements pertaining to these terms of use are only effective if they have been stipulated in writing.

## **§ 6 Severability Clause**

- (1) In case any of the provisions above is or becomes invalid or infeasible, the remaining provisions shall remain valid without impairment. In place of the invalid or infeasible provision, a valid or practicable provision should apply or be stipulated.

Recipient of the data

For the DDA

Location, date

Location, date

Name

Name

Signature (Entry of the name is sufficient)

Signature (Entry of the name is sufficient)