Feedback on “Guidelines 1/2026 on processing of personal data for scientific research purposes” as adopted on 15 April 2026 by the European Data protection Board (EDPB)

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The National Institute of Criminalistics and Criminology (NICC) is a federal scientific institute linked to the Federal Public Service Justice of Belgium. Amongst our tasks is the execution of forensic expertise and criminology research for Justice. Thus, we highly appreciate the EDPB Guidelines 1/2026 on processing of personal data for scientific research purposes adopted on 15 April 2026. However, an aspect on purpose limitation seems unclear to us and seems contrary to what is stated in the General Data Protection Regulation (GDPR). In addition, we would like to have more in depth information on the concept trusted third party, and we have some feedback on consent and suggestions to make some terminology clearer.

Belspo (the Belgian Science Policy that prepares, implements and evaluates federal science policy on behalf of the Government and in support of the competences of the Federal Government), Statbel (the Belgian statistical office that collects, produces and disseminates reliable and relevant figures on the Belgian economy, society and territory) and the Federal Planning Bureau (FPB) (an independent federal public institution that supports political decision-making with objective figures and facts) were consulted in drafting this document.

1. Purpose limitation

On purpose limitation and scientific research the GDPR states, amongst other, the following:

> *"Personal data shall be: (b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;* ***further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall****, in accordance with Artikel 89(1),* ***not be considered to be incompatible with the initial purposes*** *('purpose limitation');" (GDPR, art. 5(1)(b)) (emphasis added)*
>
> *"(50) The processing of personal data for purposes other than those for which the personal data were initially collected should be allowed only where the processing is compatible with the purposes for which the personal data were initially collected. In such a case,* ***no legal basis separate from that which allowed the collection of the personal data is required****. If the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, Union or Member State law may determine and specify the tasks and purposes for which the further processing should be regarded as compatible and lawful.* ***Further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes should be considered to be compatible lawful processing operations. The legal basis provided by Union or Member State law for the processing of personal data may also provide a legal basis for further processing.*** *In order to ascertain whether a purpose of further processing is compatible with the purpose for which the personal data are initially collected, the controller, after having met all the requirements for the lawfulness of the original processing, should take into account, inter alia: any link between those purposes and the purposes of the intended further processing; the context in which the personal data have been collected, in particular the reasonable expectations of data subjects based on their relationship with the controller as to their further use; the nature of the personal data; the consequences*

of the intended further processing for data subjects; and the existence of appropriate safeguards in both the original and intended further processing operations. […]" (Consideration 50) (emphasis added)

The Guidelines 1/2026 set out the following:

"21. […] However, the EDPB and the EDPS have also stated that the question of compatibility of purposes should not be confused with principle of lawfulness. ***Therefore the possibility to rely on the legal basis that the initial processing was based on requires an assessment of lawfulness to determine that this legal basis is also suitable to rely on for the further processing of personal data for scientific research purposes****." (emphasis added)*

Here a reference is being made to the EDPB-EDPS Joint Opinion 2/2026 On the proposal for a Regulation as regards the simplification of the digital legislative framework (10.02.2026), that states:

"32. The EDPB and the EDPS recall that, in cases where the initial legal basis is relied on for the further compatible processing, the rights of data subjects will then depend on that initial legal basis. The EDPB and the EDPS consider that the fact that data subjects whose data are processed for scientific research may have different rights depending on the initial legal basis relied upon for collection of the data should also be addressed. According to the EDPB and the EDPS, the question of compatibility of purposes should not be confused with the principle of lawfulness under the GDPR and EUDPR."

It seems that the Guidelines set out a stricter approach than the GDPR itself with regards to scientific research. The relevant recital in the GDPR states explicitly that *"further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes should be considered to be compatible* ***lawful*** *processing operations"* (see above and emphasis added). When a further processing is compatible (with the initial processing that has a legal basis), why would there be a requirement to assess lawfulness anew? Even though lawfulness and purpose limitation are two different principles under the GDPR, they are closely linked with each other. In current practice archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, are generally considered as purposes that can always follow from the initial processing, without reassessment of the legal basis, because the GDPR states it so: this further processing is compatible.

By contrast, the assessment as set out in the Guidelines will often have a negative outcome when implemented, because the legal basis of the initial purpose is distinct from the legal framework applicable to the further processing for scientific purposes. In addition, the reference to the Joint Opinion EDPB-EDPS suggests that the suitability assessment proposed by the Guidelines are intended to streamline data subject rights. Streamlining data subject rights is an objective that could be pursued by appropriate safeguards in the meaning of article 89 GDPR. The Guidelines however seem to indicate that which data subject rights are available (depending on the legal basis identified for the initial processing), is a factor to already consider when assessing which legal basis applies for the initial processing. This is a novel approach to article 6(1) GDPR, and it is uncertain this would apply only to further processing

for scientific research or have broader implications. Moreover, Guidelines 1/2026 do not entirely clarify what the criteria are for the proposed additional suitability assessment. Alternatively, the Guidelines could be read to mean that further processing for scientific research requires its own legal basis, despite the wording of art. 5(1)b GDPR. Furthermore, concerning data subject rights, in processing activities for scientific purposes, it is often more difficult to facilitate data subject rights, because appropriate measures were taken such as anonymisation or pseudonymisation, as put forward by article 89 GDPR. This is often done before the data is being sent to the organisation that does the scientific research. This means that after the anonymisation and pseudonymisation took place, it is often impossible to facilitate (certain) data subject rights because it is not possible to link the data to a natural person.

2. Trusted Third Party (TTP)

One of the other types of appropriate safeguards that is mentioned in the Guidelines 1/2026 is:

> *"170. […] Managing pseudonymisation and creating barriers between contact data or other identifiers of research participants and research data, for example through internal organisational firewalls or by entrusting pseudonymisation to a trusted third party; […]" (bullet point 13)*

The concept of a trusted third party is mentioned, but no definition or further information is given in that regard. In Belgium the predecessor of the Belgian Supervisory Authority wrote a recommendation on this in 2010[1], so an update and more clarification on the European level becomes imperative. In practice there exists a lot of confusion around how a trusted third party is organised and works. We would welcome more clarification on this subject.

3. Consent

In the Guidelines the following is mentioned concerning consent:

> *"53. […] An individual's consent to participate in research pursuant to ethical or legal requirements is typically intended to ensure the protection of the right to human dignity and the right to integrity of data subjects as individuals, under Article 1 and 3 of the CFREU. Such consent is not required by the GDPR, but may be considered as an additional safeguard according to Article 89 GDPR."*

We appreciate the distinction made between consent as legal basis and consent as additional safeguard. However, in current practice, consent is also used as additional safeguard in the context of transparency, serving as proof that the obligation to provide information was fulfilled. Frequently, before starting a scientific research, consent is asked in order to confirm

[1] Commissie voor de bescherming van de persoonlijke levenssfeer, Aanbeveling nr. 02/2010 van 31 maart 2010, Aanbeveling omtrent de privacybeschermende rol van Trusted Third Parties (TTP) bij gegevensuitwisseling (A/09022). To consult via: NI Advies.dotm, and also available in French via: Also available in French: Recommandation pour traitement ultérieur n° 02/2010 du 26 avril 2010

that the data subject understands the processing activity and has received the information as obliged in articles 5(1)(a) and 12-14 of the GDPR.

4. Terminolgy

Generally, we would welcome more specific information and examples, either textually or visually (p. ex. (decision) diagrams, etc.) to reduce the risk of misinterpretation.

Also, some terminology appears to be confusing or not clear enough, such as:

- What exactly is a “trusted data holder” (paragraph 136)? And: what is the difference between a “trusted third party” (paragraph 170)? Is it possible to clarify this or to add a definition?
- What is the difference between an “independent data trustee” (paragraph 49) and a “trusted third party” (paragraph 170). It is possible to clarify this?
- In example 9 the term “privacy policy” is used, but in this context is it not more apt to use “privacy statement” or even “data protection statement”? “Policy” seems a more correct wording for strategy, guideline, procedure or rules, as set out in article 24(2) GDPR.