RESPONSE TO THE EUROPEAN DATA PROTECTION BOARD'S PUBLIC CONSULTATION ON GUIDELINES 1/2026 ON PROCESSING OF PERSONAL DATA FOR SCIENTIFIC RESEARCH PURPOSES ON BEHALF OF THE DATA PROTECTION OFFICERS OF THE FLEMISH UNIVERSITIES, VIB AND ITG

We, the Data Protection Officers (DPOs) of the Flemish universities, VIB and the Institute of Tropical Medicine (ITG), represented in the GDPR Working Group of the Flemish Interuniversity Council (VLIR), wish to express our appreciation for the European Data Protection Board's Guidelines 1/2026 on the processing of personal data for scientific research purposes and welcome the opportunity to contribute to this public consultation.

We are grateful for the substantial effort invested in producing this comprehensive and well-structured document. The Guidelines provide valuable clarification for the research and higher education sector and make an important contribution to enhancing legal certainty and promoting a more harmonized interpretation and application of the GDPR across Member States. We particularly welcome the attention to the specific characteristics and operational realities of scientific research in increasingly complex and data-driven environments.

Drawing on our practical experience, we would like to offer two observations to further enhance the clarity and applicability of the Guidelines in the academic context.

1. Broad Consent in Scientific Research

We welcome the continued recognition of broad consent as a legitimate basis for scientific research, particularly where specific purposes cannot be fully defined at the time of data collection. This reflects the practical reality that future research uses are often not foreseeable .

However, a significant challenge remains in balancing sufficiently specific consent with the flexibility required for future, unforeseen research purposes which remains difficult in practice. Overly restrictive domain-specific labels should be avoided while respecting the principle of purpose limitation (for example, "scientific research for health, care and innovation").

We also see opportunities to strengthen coherence with the European Health Data Space (EHDS) framework. In particular, guidance could:

- Facilitate GDPR-compliant reuse of personal data for research outside or prior to the EHDS secondary-use regime.
- Promote alignment with EHDS provisions on consent-related safeguards, notably Recital 52.

Clarification in these areas would improve interoperability across regulatory frameworks and reduce legal uncertainty in cross-border and multidisciplinary research.

2. Covert Research and Limitations to Transparency

We fully endorse transparency as a core GDPR principle. However, certain research methodologies—particularly in the social sciences—may require temporary limitations to transparency to preserve research validity.

Further clarification is needed on the application of Articles 12–14 GDPR in cases where covert approaches are necessary to achieve legitimate research objectives. This arises, for example, in audit and penetration testing, as well as evaluative research, where prior information may bias behaviour and invalidate results. Similarly, some research depends on observing spontaneous human behaviour, which would not be possible under full prior transparency.

Examples include:

- "Mystery call" studies on discrimination in labour or housing markets, where prior information would compromise authentic responses.
- Experimental focus groups designed to observe natural group dynamics rather than declared tasks.

These research methodologies often serve a significant public interest, including evidence-based policymaking and the promotion of fundamental EU values such as equality and non-discrimination. They are frequently conducted in cooperation with public authorities.

We therefore invite further guidance on:

- The conditions under which covert research is compatible with GDPR principles, especially Article 5 and Article 14.
- The role of ethical review, necessity, and proportionality assessments.
- Appropriate safeguards, including post hoc debriefing, data minimisation, and strict access controls.

Such clarification would ameliorate GDPR application while ensuring that valuable research in the public interest is not unduly hindered.

Conclusion

We reiterate our appreciation for the EDPB's efforts and consider the Guidelines an important step towards a coherent and workable framework for data processing in scientific research.

As DPOs in the academic sector, we remain committed to upholding data protection principles while enabling high-quality, ethically sound, and socially valuable research. We believe these objectives are mutually reinforcing and require clear and practical guidance.

We hope our observations contribute to further refining the Guidelines, in particular regarding broad consent and covert research, to enhance legal certainty without constraining legitimate research activities.